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PART 2. ASSESSMENT

CHAPTER 1. TAXATION BASE

Article 1. Taxable and Exempt Property

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201. **Taxable property.** All property in this State, not exempt under the laws of the United States or of this State, is subject to taxation under this code.

Construction.—This section constitutes statutory authority for taxation on an "average presence" basis. Express statutory authorization for the lien-date structure of property taxation does not preclude other fair and reasonable methods of assessment. *Sea-Land Service, Inc.* v. *Alameda County,* 12 Cal.3d 772.

Religious literature.—The imposition of a nondiscriminatory personal property tax on religious books and pamphlets held in a warehouse by a corporation engaged exclusively in spreading the doctrines of a religious organization is not unconstitutional as an infringement on freedom of religion or freedom of the press guaranteed by the First and Fourteenth Amendments to the United States Constitution. *Watchtower Bible & Tract Society, Inc.* v. *Los Angeles County,* 181 F.2d 739, cert. denied 340 U.S. 820.

Possessory interests in personal property.—This section and Article XIII, Section 1, are controlled by constitutional and statutory provisions dealing expressly with personal property and interests therein. *General Dynamics Corp.* v. *Los Angeles County,* 51 Cal.2d 59.

Estoppel.—On appeal of a judgment in favor of a cable television company in a proceeding for a writ or mandate by a county to order the county assessment appeals board to set aside its decision that the company's cable television franchises could not be taxed, the county assessor's earlier assertions that the company's possessory interests should not be separately assessed and that its franchises had no value apart from its tangible property did not preclude review of this issue. The government cannot be estopped from collecting taxes because of an administrative official's erroneous ruling, and an assessor's duty to assure uniformity in taxation bestows upon him the power to collect taxes due retroactively. *Stanislaus County* v. *Assessment Appeals Board,* 213 Cal.App.3d 1445.

201.1. **Transit development board; property of wholly-owned, nonprofit entity.** Property owned by a nonprofit entity, in which a transit development board has the sole ownership interest in the entity, shall be deemed to be property owned by the transit development board for purposes of this division. To the extent that the property is possessed, or a claim to or right to possession of the property exists, for other than public purposes, the interest shall be deemed a possessory interest as defined in Section 107.

It is the intent and purpose of this section to clarify Section 3 of Article XIII of the California Constitution and, therefore, this section does not constitute a change in, but is declaratory of, the existing law. Furthermore, this section shall not be construed to exempt, from ad valorem property taxation, property of any transit development board located outside of its boundaries.

History.—Added by Stats. 1981, Ch. 4, in effect February 27, 1981. Stats. 1981, Ch. 414, in effect January 1, 1982, deleted the third and fourth paragraphs which provided the exemption "shall be in effect only during the 1981–82 assessment year."

Note.—Section 2 of Stats. 1981, Ch. 414, provided no payment by state to local governments because of this act.

201.2. **Agricultural fair; use of county-owned property.** (a) A nonprofit corporation which has contracted with the board of supervisors pursuant to Section 25905, 25906, 25907, or 25908 of the Government Code for the conduct of an agricultural fair, shall be deemed to be an agency of the county for purposes of this part and for no other purpose, and county-owned property, including possessory interests in that property, used or possessed by the nonprofit corporation in the conduct of an agricultural fair shall be exempt from taxation under subdivision (b) of Section 3 of Article XIII of the State Constitution.

(b) This section shall not be construed to exempt any profit-making organization or concessionaire from any property tax, including a property tax on a possessory interest, for the use of property which is used by a nonprofit corporation for the conduct of a fair.

History.—Added by Stats. 1982, Ch. 558, in effect January 1, 1983. Stats. 1991, Ch. 646, in effect January 1, 1992, deleted former subdivision (b) which provided "Any tax which is levied as a result of an assessment made of property described in subdivision (a) after January 1, 1982, shall, if unpaid, be cancelled and, if paid, be refunded."; relettered former subdivision (c) as subdivision (b).

Note.—Section 3 of Stats. 1982, Ch. 558, provided the Legislature finds and declares that the type of property described in Section 201.2 of the Revenue and Taxation Code, as added by this act, is property of a type which was not being assessed and taxed on January 1, 1973. Therefore, there shall be no reimbursement of local government of any property tax loss, and the State Board of Control shall accept no claims for reimbursement in that regard.

201.3. **City of San Diego; property of wholly owned, nonprofit entity.** Property which is exclusively devoted to public purposes and is owned by a nonprofit entity, in which a chartered city with a population of over 750,000 and located in a county of the third class has the sole ownership interest shall be deemed to be property owned by the chartered city.

This section shall not be construed to exempt from ad valorem property taxation property of the chartered city located outside of its boundaries.

History.—Added by Stats. 1987, Ch. 1412, in effect January 1, 1988.

Note.—Section 2 of Stats. 1987, Ch. 1412, provided that the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because the City of San Diego has created a nonprofit public benefit corporation the sole ownership interest in which is held by the city. The property of that nonprofit corporation is used exclusively to provide services, goods, or equipment to the city and other public entities within the County of San Diego for their interest and benefit. The unique structure and operational activities of the nonprofit corporation do not permit a total exemption from taxation of its property under the current exemptions available to nonprofit corporations which are owned by or operated for the interest and benefit of public entities, notwithstanding the fact that the nonprofit corporation is devoted to public purposes and is owned exclusively by a public entity. This act makes a classification or exemption of property for purposes of ad valorem taxation within the meaning of Section 2229 of the Revenue and Taxation Code. Sec. 3 thereof provided that this act shall apply to exemption claims filed for the 1988–89 fiscal year and fiscal years thereafter.

201.4. **City of Palm Springs; possessory interests.** (a) The possessory interests of a nonprofit entity, solely owned by the City of Palm Springs, in property which is located wholly within the boundaries of an Indian reservation and owned by the United States in trust for named Indian allottees, and which is leased to the City of Palm Springs under a master lease a portion of which for purposes of financing is subleased to a nonprofit entity, and subleased by that nonprofit entity to the City of Palm Springs which devotes that property exclusively to convention or related public purposes, shall be deemed to be property owned by the City of Palm Springs.

(b) Property which is owned in fee by a nonprofit entity in which the City of Palm Springs has the sole ownership interest, and leased by that nonprofit entity to the City of Palm Springs which devotes that property exclusively to convention or related public purposes, shall be deemed to be property owned by the City of Palm Springs.

(c) This section shall not be construed to exempt from ad valorem property taxation any possessory interest in otherwise tax-exempt property not devoted exclusively to convention or related public purposes or any property or possessory interest in property of the City of Palm Springs located outside of its boundaries.

History.—Added by Stats. 1989, Ch. 539, in effect September 20, 1989.

Note.—Sections 2 and 4 of Stats. 1989, Ch. 539, state the Legislature's findings, declarations and intent in enacting that act as follows: ". . . a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution due to the following unique circumstances:

The City of Palm Springs owns and operates public facilities located upon one of three assessor's parcels which are or will be leased from the United States of America as trustee for certain Indian allottees. That master lease serves the function of pooling rental income from all three parcels for distribution to the numerous Indian allottees. The one leased

parcel used by the City of Palm Springs exclusively for public purposes is subleased to a nonprofit public benefit corporation, the sole ownership interest of which is held by the city. That nonprofit entity in turn has financed and constructed the public facility and sublet the property to the City of Palm Springs. The subleases require that any ad valorem taxes assessed against the property or possessory interest therein be paid by the sublessee. An adjoining parcel owned in fee by the same nonprofit entity is likewise leased to the City of Palm Springs and used by the city for public purposes. The unique nature of ownership and financing and leasing arrangements do not permit a total exemption from taxation under current law of these parcels even though used exclusively for public purposes.

It is the intent of the Legislature in enacting this act that the provisions of Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 of Division 1 of the Revenue and Taxation Code shall apply to the subject property, including any taxable possessory interest in the subject property acquired by the City of Palm Springs or deemed to be owned by the city, and that the date of apportionment of taxes pursuant to Section 5082 of the Revenue and Taxation Code shall be the date upon which the City of Palm Springs acquires the master lease referred to the Sections 1 and 2.''

201.5. **California Pollution Control Financing Authority; possessory interests.** (a) Possessory interests in property acquired by or for the California Pollution Control Financing Authority pursuant to Division 27 (commencing with Section 44500) of the Health and Safety Code, whether in real or personal property, shall be subject to taxation under this code.

(b) If the amount determined pursuant to subdivision (a) is less than the amount of tax which would have been imposed if the participating party owned the pollution control facility, the contract or lease between the California Pollution Control Financing Authority and such party shall provide that the difference between the amount of tax paid pursuant to subdivision (a) and the amount determined on the basis of the full cash value of the property shall be paid by such party to the tax collector for the taxing agency at the same time as the property tax is paid.

History.—Added by Stats. 1973, Ch. 277, p. 673, in effect August 15, 1973. Stats. 1975, Ch. 957, p. 2228, in effect January 1, 1976, substituted "Section 44500" for "Section 39600" in subdivision (a).

201.6. **Ventura Port District; possessory interests.** (a) Subject to subdivision (b), property that is exclusively devoted to a public purpose and is owned by a nonprofit entity, the property, assets, profits, and net revenues of which are irrevocably dedicated to the Ventura Port District, shall be deemed to be property that is owned by the Ventura Port District.

(b) This section shall not be construed to exempt from ad valorem property taxation, including, but not limited to, any ad valorem property tax levied with respects to a possessory interest, either of the following:

(1) Any property owned by a profit-making organization or concessionaire.

(2) Any property of the Ventura Port District that is located outside of the boundaries of the district.

History.—Added by Stats. 1996, Ch. 1087, in effect January 1, 1997.

202. **Crops, libraries, museums, schools, government property.** (a) The exemption of the following property is as specified in subdivisions (a), (b), (d) and (h) of Section 3 of Article XIII of the Constitution, except as otherwise provided in subdivision (a) of Section 11 thereof:

(1) Growing crops.

(2) Property used for free public libraries and free museums.

(3) Property used exclusively for public schools, community colleges, state colleges, and state universities, including the University of California.

(4) Property belonging to this state, a county, or a city. Property belonging to the State Compensation Insurance Fund is not property belonging to this state.

(b) The exemption described in paragraph (3) of subdivision (a) shall apply to off-campus facilities owned or leased by an apprenticeship program sponsor, if such facilities are used exclusively by the public schools for classes of related and supplemental instruction for apprentices or trainees which are conducted by the public schools under Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(c) Without prejudice to the right to assert an exemption otherwise available under subdivision (a), (d), or (e) of Section 3 of Article XIII of the Constitution, a property tax under this division shall be imposed upon that portion of the bookstore property determined to be generating the unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, to the extent property is:

(1) Owned by an educational institution of collegiate grade or used by a nonprofit corporation operating a student bookstore affiliated with such an educational institution, and

(2) Is primarily devoted to bookstore use that produces income that is taxable as unrelated business taxable income.

This tax shall be determined by establishing a ratio of the unrelated business taxable income to the bookstore's gross income as defined by the Internal Revenue Code. That percent shall be the maximum percentage of such bookstore property on which a property tax can be levied.

At the end of a fiscal year when unrelated business income has been generated, the nonprofit organization shall file with the assessor copies of the organization's most recent tax return filed with the Internal Revenue Service.

History.—Stats. 1945, p. 31, (Third Extra Session 1944), deleted "United States" from subsection (d) and added subsection (e). Pursuant to Section 4 of the amending statute this amendment took effect on the adoption of the 1944 amendment to Article XIII, Section 1, of the Constitution. Stats. 1951, p. 2447, in effect September 22, 1951, added second sentence to subsection (d). Stats. 1974, Ch. 311, p. 590, in effect January 1, 1975, substituted "subsections (a), (b), (d) and (h) of Section 3" for "Section 1", and added the balance of the first sentence after "Constitution"; and deleted former subsection (e) relating to property exempt under the laws of the United States. Stats. 1976, Ch. 776, p. 1817, in effect January 1, 1977, added the subdivision letters; relettered the former subsections (a), (b), (c), and (d) as subsections (1), (2), (3), and (4), respectively; and added subdivision (b). Stats. 1978, Ch. 936, in effect September 20, 1978, added the phrase "community colleges, state colleges, and state universities, including the University of California" in subdivision (a)(3). Sec. 4 of the bill provided that no reimbursement was to be allowed local government because of this amendment. Stats. 1988, Ch. 1606, in effect January 1, 1989, added subdivision (c).

Note.—Stats. 1951, p. 2447, amending Sections 202, 12003 and 12264 of the Revenue and Taxation Code, provides that if any one of its provisions is held invalid the remainder of the act shall also be deemed invalid.

Note.—Section 3 of Stats. 1976, Ch. 776, p. 1817, provided that 1976 amendments are declaratory of existing law.

Note.—Section 4 of Stats. 1988, Ch. 1606, provided that if any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. Sec. 5 thereof provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. Sec. 6 thereof provided that notwithstanding Section 2229, the requirements of that section shall not apply to the exemption of property for purposes of ad valorem property taxation made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 7 thereof provided that this act shall apply to property taxes levied for the 1989–90 fiscal year and fiscal years thereafter.

Note.—For cases relating to the exemptions in this section see annotations after Article XIII, Section 3, of the Constitution.

202.1. **Turf grass.** [Repealed by Stats. 1974, Ch. 157, p. 303, in effect April 4, 1974, operative June 30, 1979.]

202.2. **Reductions of taxes for property leased to various entities.** Any reduction in property taxes on leased property used for libraries and museums that are free and open to the public, leased property used exclusively for public schools, community colleges, state colleges, or state universities, including the University of California, or leased property used exclusively for educational purposes by a nonprofit institution of higher education and granted the exemption set forth in subdivision (d) or (e) of Section 3 of Article XIII of the California Constitution shall inure to the benefit of the lessee institution. If the lessor claims the exemption and if the lease or rental agreement does not specifically provide that the exemption contained in subdivision (d) or (e) of Section 3 of Article XIII is taken into account in fixing the terms of the agreement, the lessee shall receive a reduction in rental payments or a refund thereof, if already paid, in an amount equal to the reduction in taxes.

If the lessor does not claim the exemption on property eligible for the exemption contained in subdivision (d) or (e) of Section 3 of Article XIII, the lessee may file a claim for refund under Section 5096 with respect to taxes paid by the lessor on the property. For purposes of Sections 5097 and 5140, the lessee shall be deemed to be the person who paid the tax, and the refund shall be made directly to the lessee. Notwithstanding the provisions of paragraph (1) of subdivision (a) of Section 270, the full amount of tax paid by the lessor shall be refunded to the lessee.

Any refund granted pursuant to this part shall not be considered a reduction in the sales price or gross receipts from the rental of the property for purposes of Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200) or Part 1.6 (commencing with Section 7251).

History.—Added by Stats. 1978, Ch. 936, in effect September 20, 1978. Sec. 4 of bill provided no reimbursement was to be allowed local government because of this enactment.

202.5. **State colleges; use of certain property.** Personal property used exclusively in the performance of activities authorized by Division 8 (commencing with Section 89000) of the Education Code, whether by the college itself or by an auxiliary nonprofit corporation or student body organization with which the Director of Education has entered into a lease or contract for the performance of such activities, is deemed property used exclusively for public schools and shall be exempt from taxation.

It is hereby declared that this section is not a change in the present law but is a declaration of preexisting law.

History.—Added by Stats. 1957, p. 2395, in effect September 11, 1957. Stats. 1970, p. 1072, in effect November 23, 1970, substituted "Division 18 (commencing with Section 23600)" for "Article 2 (commencing at Section 20341) Chapter 2, Division 10" in the first paragraph. Stats. 1981, Ch. 261, in effect January 1, 1982, substituted "Division 8" for "Division 18" and "Section 89000" for "Section 23600" in the first paragraph.

202.6. **Personalty used by a student organization.** Personal property used exclusively in the performance of activities authorized by Article 2 (commencing with Section 48930) of Chapter 6 of Part 27 of Division 4 of,

or Article 4 (commencing with Section 76060) of Chapter 1 of Part 47 of Division 7 of the Education Code by a student body organization acting pursuant to those provisions, is deemed property used exclusively for public schools and shall be exempt from taxation.

History.—Added by Stats. 1959, p. 2996, in effect September 18, 1959. Stats. 1981, Ch. 261, in effect January 1, 1982, substituted "Article 2 (commencing with Section 48930) of Chapter 6 of Part 27 of Division 4 of, or Article 4 (commencing with Section 76060) of Chapter 1 of Part 47 of Division 7 of the Education Code" for "Article 5 (commencing at Section 10701) of Chapter 1 of Division 9 of the Education Code as enacted at the 1959 Regular Session," after "By".

202.7. **Personalty used by student governments.** Personal property owned or used by student governments of the University of California or by nonprofit corporations operating student book stores of colleges affiliated with the University of California is, for purposes of this section, deemed property belonging to this state and shall be exempt from taxation.

History.—Added by Stats. 1972, p. 733, in effect March 7, 1973. Stats. 1974, Ch. 759, p. 1675, in effect January 1, 1975, added "or by nonprofit corporations operating student book stores of colleges affiliated with the University of California" after "University of California", and added ", for purposes of this section," after "is". Sec. 2 thereof provided no payment by state to local governments because of this act.

203. **Colleges.** (a) The college exemption is as specified in subdivision (e) of Section 3 and Section 5 of Article XIII of the California Constitution.

(b) An educational institution of collegiate grade is an institution incorporated as a college or seminary of learning that requires for regular admission the completion of a four-year high school course or its equivalent, and confers upon its graduates at least one academic or professional degree, based on a course of at least one year in flight test technology or flight test science, for which the master's degree program has been approved by the California Council for Private Postsecondary and Vocational Education or the Bureau for Private Postsecondary and Vocational Education, on a course of at least two years in liberal arts and sciences, or on a course of at least three years in professional studies, such as law, theology, education, medicine, dentistry, engineering, veterinary medicine, pharmacy, architecture, fine arts, commerce, or journalism.

(c) An educational institution of collegiate grade is not conducted for profit when it is conducted exclusively for scientific or educational purposes and no part of its net income inures to the benefit of any private person.

(d) Without prejudice to the right to assert an exemption otherwise available under subdivision (a), (d), or (e) of Section 3 of Article XIII of the Constitution, a property tax under this division shall be imposed upon that portion of the bookstore property determined to be generating the unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, to the extent property is both of the following:

(1) Owned by an educational institution of collegiate grade or used by a nonprofit corporation operating a student bookstore affiliated with an educational institution of collegiate grade.

(2) Primarily devoted to bookstore use that produces income that is taxable as unrelated business taxable income.

This tax shall be determined by establishing a ratio of the unrelated business taxable income to the bookstore's gross income as defined by the Internal Revenue Code. That percent shall be the maximum percentage of the bookstore property on which a property tax can be levied.

At the end of a fiscal year when unrelated business income has been generated, the nonprofit organization shall file with the assessor copies of the organization's most recent tax return filed with the Internal Revenue Service.

History.—Stats. 1972, p. 147, in effect March 7, 1973, and operative on the lien date in 1973, substituted "two" for "four" in the second paragraph. Stats. 1974, Ch. 311, p. 590, in effect January 1, 1975, substituted "subdivision (e) of Section 3 and Section 5" for "Section 1a" in the first sentence of the first paragraph. Stats. 1987, Ch. 498, in effect January 1, 1988, added "California" before "Constitution" in the first sentence of the first paragraph, and deleted "under the laws of this state," after "learning," in the first sentence of the second paragraph. Stats 1988, Ch. 1606, in effect January 1, 1989 added subdivision headings (a), (b), and (c) to the existing paragraphs and added new subdivision (d). Stats. 1998, Ch. 562 (SB 218), in effect September 18, 1998, substituted "learning that" for "learning, which" after "seminary of" and added "on a course of at least . . . and Vocational Education," after "professional degree, based" in the first sentence of the first paragraph of subdivision (b); and added "both of the following" after "extent property is" in the first sentence of subdivision (d), substituted "institution of collegiate grade." for "institution, and" in the first sentence of paragraph (1) and substituted "Primarily" for "Is primarily" before "devoted" in the first sentence and substituted "the" for "such" after "percentage of" in the second sentence of the second paragraph of subdivision (d).

Construction.—The professions specified in this section were not intended to be exclusive, and the study of acting constitutes a ''professional'' study within the meaning of this section. Neither is it required that a majority of students take a three- or four-year course, or that they pursue their studies until degrees are obtained. Consequently an institution otherwise meeting the requirements of this section is not deprived of its right to the exemption by reason of the fact that a majority of its students take only a two-years' course and do not receive a degree. *Pasadena Playhouse Ass'n* v. *Los Angeles County,* 69 Cal.App.2d 611.

Where an educational institution otherwise exempted by Article XIII, § 1a of the State Constitution and statutes enacted thereunder including this section, accepts transfers to it of money and other property in consideration of issuance by it of annuities and life income contracts to its donors, it does not lose the tax exempt status since the amounts paid are only payments of debts and not distribution of profits. *Estate of Letts,* 200 Cal.App.2d 708.

Note.—Section 4 of Stats. 1988, Ch. 1606, provided that if any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. Sec. 5 thereof provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. Sec. 6 thereof provided that notwithstanding Section 2229, the requirements of that section shall not apply to the exemption of property for purposes of ad valorem property taxation made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 7 thereof provided that this act shall apply to property taxes levied for the 1989–90 fiscal year and fiscal years thereafter.

Note.—For further annotations relating to the college exemption see Article XIII, Sections 3 and 5, of the Constitution.

203.1. **Personalty used by student bookstores.** Personal property owned or used by a nonprofit corporation operating a student bookstore affiliated with an educational institution, as defined in Section 203, is, for purposes of this section, deemed property belonging to such educational institution and shall be exempt from taxation.

History.—Added by Stats. 1979, Ch. 588, in effect January 1, 1980.

Note.—Section 2 of Stats. 1979, Ch. 588, provided that the Controller shall report to the Legislature on the amount of the claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the exemption of property by Section 1 of this act. Such report shall be made on or before the first day of October next following the operative date of this act, in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code.

203.5. **Designated institutions.** Property owned by the California School of Mechanical Arts, California Academy of Sciences, or Cogswell Polytechnical College, or held in trust for the Huntington Library and Art Gallery, or their successors, shall be exempt from taxation as provided in subdivision (c) of Section 4 of Article XIII of the Constitution.

History.—Added by Stats. 1974, Ch. 311, p. 591, in effect January 1, 1975.

Construction.—The California Academy of Sciences is granted a broad exemption on owned property; and it need not use its property for charitable purposes in order to qualify for exemption. *California Academy of Sciences* v. *Fresno County,* 192 Cal.App.3d 1436.

204. **Cemeteries.** The cemetery exemption is as specified in subdivision (g) of Section 3 of Article XIII of the Constitution.

History.—Stats. 1974, Ch. 311, p. 591, in effect January 1, 1975, substituted "subdivision (g) of Section 3" for "Section 1(b)".

205. **Veterans.** The veterans' exemption is as specified in subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution.

The following are wars under subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution:

(a) Revolutionary War, April 19, 1775–January 14, 1784.

(b) Second War With England, June 18, 1812–February 17, 1815.

(c) Black Hawk War, April 6, 1832–August 2, 1832.

(d) War With Mexico, April 24, 1846–May 30, 1848.

(e) Civil War, April 18, 1861–August 20, 1866.

(f) War With Spain, April 21, 1898–April 11, 1899.

(g) War in Philippines, April 11, 1899–July 4, 1902.

(h) Chinese Relief Expedition, June 20, 1900–May 15, 1901.

(i) Campaign against the Rogue River, Yakima, Nez Percé, and Snake Indians in Oregon and Washington, 1855–1856.

(j) Campaign against the Indians in southern Oregon and Idaho and northern California and Nevada, 1865–1868.

(k) Campaign against the Cheyennes, Arapahoes, Kiowas, and Comanches in Kansas, Colorado, and Indian Territory, 1867–1869.

(*l*) Modoc War, 1872–1873.

(m) Campaign against the Apaches in Arizona, 1873.

(n) Campaign against the Kiowas, Comanches, and Cheyennes in Kansas, Colorado, Texas, Indian Territory, and New Mexico, 1874–1875.

(o) Campaign against the Northern Cheyennes and Sioux, 1876–1877.

(p) Nez Percé War, 1877.

(q) Bannock War, 1878.

(r) Campaign against the Northern Cheyennes, 1878–1879.

(s) Campaign against the Ute Indians in Colorado and Utah, September, 1879–November, 1880.

(t) Campaign against the Apache Indians in Arizona, 1885–1886.

(u) Campaign against the Sioux Indians in South Dakota, November, 1890–January, 1891.

(v) War With Germany-Austria, April 6, 1917–November 11, 1918.

(w) Campaign against the Apache Indians in Arizona, 1895–1896.

(x) World War II, December 7, 1941, to January 1, 1947.

(y) Campaign against the North Koreans and Chinese Communists in Korea, June 27, 1950, to January 31, 1955.

(z) Campaign against the Viet Cong and North Vietnamese Communists in South Vietnam, August 5, 1964, to May 8, 1975.

The following are campaigns under subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution:

(a) First Nicaraguan campaign.

(b) Second Nicaraguan campaign.

(c) Yangtze River campaign in China.

(d) All other campaigns for service in which a medal has been issued by the Congress of the United States.

History.—Stats. 1941, p. 1193, in effect September 13, 1941, added subsection (w). Stats. 1947 (First Extra Session 1946), p. 157, in effect May 21, 1946, added subsection (x). Stats. 1951, p. 1792, in effect May 24, 1951, added subsection (y) with the provision that it was declaratory of existing law. Stats. 1953, p. 1713, in effect September 9, 1953, substituted "January 1, 1947" for "May 16, 1946" in subsection (x). Stats. 1955, p. 1457, substituted "January 31, 1955" for provision authorizing a date to be fixed by the Governor in subsection (y). Stats. 1967, p. 3180, added subsection (z). Stats. 1974, Ch. 311, p. 591, in effect January 1, 1975, substituted "subdivisions (o), (p), (q), and (r) of Section 3" for "Section 1¼" in the first sentences of the first, second, and third paragraphs. Stats. 1976, Ch. 1092, p. 4937, in effect January 1, 1977, substituted "May 8, 1975" for provision authorizing a date to be fixed by the Governor in subsection (z).

Note.—For annotations relating to the veterans' exemption see Article XIII, Section 3, of the Constitution.

205.1. **Veterans'; change in assessment ratio.** Section 205 of this code fulfills the intent of subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution. To further carry out the intent of subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution, any change in assessment ratio shall not be reason to decrease the amount of the exemption or the amounts used to limit eligibility for such exemption. Whenever assessed value is used as the test of the exemption, the exemption shall be increased accordingly when the assessment ratio is increased to 100 percent. Whenever the valuation of assessable property is used to determine eligibility for such exemption based on the limitations on the value of property owned, such limitations shall be increased accordingly when the assessment ratio is increased to 100 percent to maintain the same proportionate values of such property and such limitations.

History.—Added by Stats. 1978, Ch. 1207, in effect January 1, 1979, operative January 1, 1981. Stats. 1979, Ch. 260, in effect July 17, 1979, added "or the amounts used to limit eligibility for such exemption." to the first sentence and added the last sentence.

205.5. **Disabled veterans' residences.** (a) Property that is owned by, and that constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars ($100,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or if the veteran is totally disabled as a result of injury or disease incurred in military service. The one-hundred-thousand-dollar ($100,000) exemption shall be one hundred fifty thousand dollars ($150,000), in the case of an eligible veteran whose household income does not exceed the amount of forty thousand dollars ($40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(b) For purposes of this section, ''veteran'' means either of the following:

(1) A veteran as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(2) Any person who would qualify as a veteran pursuant to paragraph (1) except that he or she has, as a result of a service-connected injury or disease died while on active duty in military service. The United States Department of Veterans Affairs shall determine whether an injury or disease is service connected.

(c) (1) Property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars ($100,000), in the case of a veteran who was blind in both eyes, had lost the use of two or more limbs, or was totally disabled provided that either of the following conditions is met:

(A) The deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977.

(B) The veteran died from a disease that was service connected as determined by the United States Department of Veterans Affairs.

The one-hundred-thousand-dollar ($100,000) exemption shall be one hundred fifty thousand dollars ($150,000), in the case of an eligible unmarried surviving spouse whose household income does not exceed the amount of forty thousand dollars ($40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(2) Commencing with the 1994–95 fiscal year, property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a veteran as described in paragraph (2) of subdivision (b) is exempt from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars ($100,000). The one-hundred-thousand-dollar ($100,000) exemption shall be one hundred fifty thousand dollars ($150,000), in the case of an eligible unmarried surviving spouse whose household income does not exceed the amount of forty thousand dollars ($40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(d) As used in this section, ‘‘property that is owned by a veteran’’ or ‘‘property that is owned by the veteran’s unmarried surviving spouse’’ includes all of the following:

(1) Property owned by the veteran with the veteran’s spouse as a joint tenancy, tenancy in common, or as community property.

(2) Property owned by the veteran or the veteran’s spouse as separate property.

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran’s spouse, or both the veteran and the veteran’s spouse.

(4) Property owned by the veteran’s unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran’s unmarried surviving spouse.

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the full value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.

(e) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less, or concentric contraction of the visual field to 5 degrees or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Department of Veterans Affairs or the military service from which the veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(f) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section coown a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

(g) Commencing on January 1, 2002, and for each assessment year thereafter, the household income limit shall be compounded annually by an inflation factor that is the annual percentage change, measured from February to February of the two previous assessment years, rounded to the nearest one-thousandth of 1 percent, in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

History.—Added by Stats. 1974, Ch. 311, p. 592, in effect January 1, 1975. Stats. 1975, Ch. 662, p. 1449, in effect September 10, 1975, added "or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation" after "disability at 100 percent" in subdivision (b). Stats. 1976, Ch. 47, p. 77, in effect March 17, 1976, deleted "(q)," after "(p)," in subdivision (a); and added "or the military service from which such veteran was discharged" after "Administration", and substituted "substantially" for "substantial" in subdivision (b). Stats. 1976, Ch. 681, p. 1677, in effect January 1, 1977, relettered the former subdivisions (b), (d), and (e) as subdivisions (f), (e), and (g), respectively; revised subdivisions (a), (c), (e), and (g); added the balance of subdivision (c) after "disabled"; added the balance of the second sentence of subdivision (g) after "of this section"; and added subdivisions (b) and (d). Stats. 1977, Ch. 961, in effect January 1, 1978, substituted "exempted" for "exempt" in subdivision (a), substituted "(o)" for "(a)" in subdivision (b), and substituted "or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977." for "under the laws in effect during his or her lifetime." in subdivision (d). Deleted "subsection" in the second and third sentence of paragraph (5) of subdivision (e) and replaced it by "paragraph". Deleted "(q)," after "(p)" and corrected "coown" to "co-own" in

subdivision (g). Stats. 1978, Ch. 1276, in effect January 1, 1979 added the clause regarding disability caused through disease; added the last sentence of subdivision (a) and the provision following the January 1, 1977, date in subdivision (d). Stats. 1978, Ch. 1207, in effect January 1, 1979, operative January 1, 1981, substituted "full" for "assessed" before "value" and "forty thousand dollars ($40,000)" for "ten thousand dollars ($10,000)" and "sixty thousand dollars ($60,000)" for "fifteen thousand dollars ($15,000)" in both subdivision (a) and subdivision (d), and substituted "specified" for "defined" before "in Section 20504" in subdivision (d). Stats. 1984, Ch. 1332, in effect January 1, 1985, deleted ", or is totally disabled" after "limbs" and added "or that does not exceed one hundred thousand dollars . . . military service" after "service" in the first sentence and added "forty thousand dollars ($40,000) before "exemption", and substituted "an eligible" for "such a" before "veteran" in the second sentence of subdivision (a); added "in the case of a veteran . . . totally disabled" after "($40,000)" and added "forty thousand dollars ($40,000)" before "exemption" and substituted "an eligible" for "such an" after "of" in the second sentence of subdivision (d); added "all of the following" after "includes" in subdivision (e) and substituted "the" for "such" in subsection (5) thereof; and added subdivision (h). Stats. 1986, Ch. 608, effective January 1, 1987, added "(q)," after "(p)," in the first sentence of subdivision (g). Stats. 1988, Ch. 411, in effect January 1, 1989, deleted former subdivision (c) and relettered the former subdivisions (d), (e), (f), (g), and (h) as (c), (d), (e), (f) and (g) respectively. Stats. 1989, Ch. 1077, in effect January 1, 1990, added ", and the one hundred thousand . . . ($150,000)," after "($60,000)" in the second sentences of subdivisions (a) and (c). Stats. 1993, Ch. 140, in effect January 1, 1994, substituted "that" for "which" after "Property" and after "by, and" in the first sentence of subdivisions (a) and (c); added "means . . . following:" after "veteran", deleted "is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.", and added paragraphs (1) and (2) to subdivision (b); established former subdivision (c) as paragraph (1) of subdivision (c), and added paragraph (2) to subdivision (c); substituted "that" for "which" after "property" in the first sentence of subdivision (d); and substituted "the" for "such" after "from which" in subdivision (e). Stats. 1995, Ch. 536, in effect October 4, 1995, substituted "2001" for "1996" after "until January 1," and substituted "that" for "which" after "enacted statute" in subdivision (g). Stats. 1996, Ch. 1087, in effect January 1, 1997, substituted "United States Department of Veterans Affairs" for "Veterans Administration" in paragraph (2) of subdivision (b), in subparagraph (B) of paragraph (1) of subdivision (c), and in subdivision (e); substituted "totally disabled provided that either of the following conditions is met:" for "totally disabled; provided that the" after "veteran who was", substituted "1977." for "1977; or provided that the" after "January 1,", and created subparagraphs (A) and (B) of paragraph (1) of subdivision (c), with the former text of paragraph (1) following "veteran who was"; substituted "that" for "which" in subparagraph (B) of paragraph (1) of subdivision (c). Stats. 2000, Ch. 1086 (SB 2195), in effect September 30, 2000, deleted "forty thousand dollars ($40,000), if the veteran is blind in both eyes or has lost the use of two or more limbs as a result of injury or disease incurred in military service or that does not exceed" after "not exceed", added "blind in both eyes, has lost the use of two or more limbs, or if the veteran is" after "the veteran is" in the first sentence, deleted "forty thousand dollar ($40,000) exemption shall be sixty thousand dollars ($60,000), and the" and substituted "one-hundred-thousand-dollar" for "one hundred thousand dollar" after "The", deleted "as defined in Section 20504" after "household income", and substituted "amount of forty thousand dollars ($40,000), as adjusted for the relevant assessment year as provided in subdivision (g)" for "amounts specified in Section 20585" after "exceed the" in the second sentence of subdivision (a); deleted "forty thousand dollars ($40,000), in the case of a veteran who was blind in both eyes or had lost the use of two or more limbs, or" after "does not exceed" and added "was blind in both eyes, had lost the use of two or more limbs, or" after "veteran who" in the first sentence of the first paragraph, and deleted "forty thousand dollars ($40,000) exemption shall be sixty thousand dollars ($60,000), and the" after "the", substituted "one-hundred-thousand-dollar" for "one hundred thousand dollar" before "($100,000)", deleted "as specified in Section 20504" after "household income", and substituted "amount of forty thousand dollars ($40,000), as adjusted for the relevant assessment year as provided in subdivision (g)" for "amounts specified in Section 20585" after "not exceed the" in the first sentence of the second paragraph of subdivision (c)(1); substituted "one-hundred-thousand-dollar" for "one hundred thousand dollar" after "The", deleted "as specified in Section 20504" after "household income", and substituted "amount of forty thousand dollars ($40,000), as adjusted for relevant assessment year as provided in subdivision (g)" for "amounts specified in Section 20585" after "exceed the" in the second sentence of subdivision (c)(2); and added ", or concentric contraction of the visual field to 5 degrees or less" after "or less" in the first sentence of subdivision (e); and substituted subdivision (g) for former subdivision (g), which provided that the section would be repealed absent the enactment of a later statute. Stats. 2001, Ch. 407 (SB 1181), in effect January 1, 2002, substituted "Commencing on January 1, 2002, and for each assessment year thereafter, the household income limit shall be compounded annually" for "To determine, for taxes that attach as a lien in 2002 and in each calendar year thereafter, whether the lower or higher exemption amount governs the amount of an exemption under this section, each household income amount applied under subdivision (a) or (c) for taxes that attached as a lien during the immediately preceding calendar year shall be adjusted" before "by an" and substituted "annual percentage change, measured from February to February of the two previous assessment years, rounded to the nearest one-thousandth of 1 percent," for "percentage change, rounded to the nearest one-thousandth of 1 percent, from October of the prior fiscal year to October of the current fiscal year," after "factor that is the" in the first sentence of subdivision (g).

Note.—Section 7 of Stats. 1975, Ch. 662, provided that no appropriation shall be made pursuant to Section 1 of this act because there are minor savings as well as minor costs in this act which, in the aggregate, do not result in significant identifiable cost changes. Section 3 of Stats. 1976, Ch. 681, p. 1679, provided no payment by state to local governments because of this act. Sec. 4 thereof provided that this act shall have prospective application only.

Note.—Section 3 of Stats. 1984, Ch. 1331, provided the Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the classification or exemption of property by this act. The report shall be made on or before the first day of October next following the operative date of this act for claims made under subdivision (a) of Section 16113 and shall be made on or before the first day of December next following the operative date of this act for claims made under subdivision (b) of Section 16113. The report shall be made in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code. Section 4 provided no payment by state to local governments because of this act.

Note.—Section 4 of Stats. 1988, Ch. 411 provided that this act makes a classification or exemption of property for purposes of ad valorem property taxation within the meaning of Section 2229 of the Revenue and Taxation Code. Sec. 5 thereof provided that the amendments to the section made by this act are declaratory of existing law.

Note.—Section 3 of Stats. 1989, Ch. 1078 provided that notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section relating to any exemption of property for more than five years or for more than 75 percent of the value thereof shall not apply to the exemption made by this act. Sec. 4 thereof provided that section 1 of this act shall be applicable to property taxes levied for the 1990–91 fiscal year through the 1995–96 fiscal year and that Section 2 thereof shall be applicable to property taxes levied for the 1996–97 fiscal year and fiscal years thereafter.

Note.—Section 3 of Stats. 2000, Ch. 1086 (SB 2195), provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

Note.—Section 12 of Stats. 2001, Ch. 407 (SB 1181) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

205.5. **Disabled veterans' residences.** [Repealed by Stats. 2000, Ch. 1086 (SB 2195) in effect September 30, 2000.]

205.7. **Blind veterans' residences.** [Repealed by Stats. 1975, Ch. 224, p. 602, in effect January 1, 1976.]

206. **Churches.** The church exemption is as specified in subdivision (f) of Section 3 and Section 5 of Article XIII of the Constitution.

History.—Stats. 1974, Ch. 311, p. 593, in effect January 1, 1975, substituted "subdivision (f) of Section 3 and Section 5" for "Section 1½".

206.1. **Church parking area.** [Repealed by Stats. 1996, Ch. 1169, in effect September 30, 1996.]

206.1. **Churches; parking area.** (a) Pursuant to the authority of subdivision (d) of Section 4 of Article XIII of the California Constitution, and in accordance with subdivision (b) of this section, all real property that is necessarily and reasonably required for the parking of automobiles of persons who are attending religious services, or are engaged in religious services or worship or any religious activity, is exempt from taxation.

(b) For purposes of the exemption established by subdivision (a), all of the following shall apply:

(1) ''Real property'' means land and improvements or a possessory interest in land and improvements.

(2) The real property is not required to be contiguous to the land on which the church or other structure used for religious services or as the place of worship or religious activity is located.

(3) The real property is not at other times used for commercial purposes. For purposes of this paragraph, ''commercial purposes'' does not include use of the property for the parking of vehicles or bicycles, the revenue from which does not exceed the ordinary and necessary costs of maintaining the real property.

(4) The exemption shall apply to otherwise qualifying land and improvements regardless of whether the land and improvements are owned by the church, religious denomination, or sect using the land and improvements for the parking of automobiles by persons described in subdivision (a). However, the exemption shall apply to land and improvements that are not owned by the church, religious denomination, or

sect using the land and improvements for the parking of automobiles by persons described in subdivision (a) only as long as all of the following conditions are met:

(A) The congregation of the church, religious denomination, or sect is no greater than 500 members.

(B) The church, religious denomination, or sect is engaged in a lease of the land and improvements for the exclusive purpose of the parking of automobiles by persons described in subdivision (a).

(C) The church, religious denomination, or sect is responsible, under the terms of its lease with the fee owner of the land and improvements, for paying the property taxes levied on the land and improvements. For purposes of this subparagraph, paying property taxes levied on land and improvements includes reimbursement paid to the fee owner of the land and improvements for those taxes.

(D) The real property is used exclusively for the parking of automobiles by persons described in subdivision (a).

(E) The fee owner of the real property and the county agree that the fee owner shall pay the total amount of taxes that would be levied on the real property for the current fiscal year and the first two subsequent fiscal years in the absence of a grant of exemption pursuant to this paragraph for the current fiscal year, if the real property is used for any purposes other than that specified in subparagraph (D) during either of those two subsequent fiscal years.

History.—Added by Stats. 1996, Ch. 1169, in effect September 30, 1996.

206.2. **Lease of church property.** Any reduction in property taxes on leased property used exclusively for religious worship and granted the church exemption shall inure to the benefit of the organization entitled to the exemption. If the lease or rental agreement does not specifically provide that the church exemption is taken into account in fixing the terms of the agreement, the tenant shall receive a reduction in rental payments, or a refund of such payments, if paid, for each month of occupancy, or portion thereof, during the fiscal year equal to one-twelfth of the property taxes not paid during such fiscal year by reason of the church exemption.

History.—Added by Stats. 1977, Ch. 522, in effect January 1, 1978.

Note.—This act shall apply to contracts entered into on and after the effective date of this act.

207. **Religious Exemption.** Property used exclusively for religious purposes shall be exempt from taxation. Property owned and operated by a church and used for religious worship, preschool purposes, nurseryschool purposes, kindergarten purposes, school purposes of less than collegiate grade, or for purposes of both schools of collegiate grade and schools less than collegiate grade but excluding property used solely for purposes of schools of collegiate grade, shall be deemed to be used exclusively for religious purposes under this section.

The exemption provided by this section is granted pursuant to the authority in subdivision (b) of Section 4 of Article XIII of the California Constitution, and shall be known as the ''religious exemption.''

This section shall be effective for the 1977–78 fiscal year and fiscal years thereafter.

History.—Added by Stats. 1981, Ch. 542, in effect January 1, 1982. Stats. 1983, Ch. 120, in effect June 22, 1983, substituted "1977–78" for "1982–83" in the third paragraph.

Note.—Section 1 of Stats. 1981, Ch. 542, provided that the purpose of this act is to provide a simple, streamlined claims process for churches and church schools in filing for property tax exempt status, effective with the 1982–83 fiscal year.

The creation of a ''religious exemption'' by this act will allow any church to file either for the ''church exemption'' or the ''religious exemption.'' A church which operates a church school, which formerly had to file a church exemption for the church property, and a welfare exemption for the school portion of the property, will henceforth be able to file a ''religious exemption'' for the entire property. After an initial claim, the exemption remains in effect until the property is no longer eligible for the exemption, with minimal annual filing requirements thereafter.

The ''welfare exemption'' remains applicable to some religious purposes, such as hospitals, educational FM radio or television stations, and certain housing owned by churches, which will continue to be covered by that exemption alone. Church schools may also continue to file for that exemption if desired, but the ''religious exemption'' offers the simplified claims process.

Note.—Section 8 of Stats. 1981, Ch. 542, provided no payment by state to local government as a result of this act because there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

207.1. **Religious Exemption; Property leased to churches.** Personal property leased to a church and used exclusively for the purposes described in Section 207 shall be deemed to be used exclusively for religious purposes under that section.

The exemption provided by this section is granted pursuant to the authority in Section 2 of Article XIII of the California Constitution.

History.—Added by Stats. 1998, Ch. 591 (SB 2237), in effect January 1, 1999.

208. **Bonds.** The bonds exemption is as specified in subdivision (c) of Section 3 of Article XIII of the Constitution.

History.—Stats. 1974, Ch. 311, p. 593, in effect January 1, 1975, substituted "subdivision (c) of Section 3" for "Section 1¾".

209. **Vessels.** The exemption of certain vessels from taxation except for state purposes is as specified in subdivision (*l*) of Section 3 of Article XIII of the Constitution.

History.—Stats. 1974, Ch. 311, p. 593, in effect January 1, 1975, substituted "subdivision (z) of Section 3" for "Section 4".

209.5. **Vessels under construction.** All right, title or interest in or to any vessel of more than 50 tons burden or 100 tons displacement, and the materials and parts held by the builder of the vessel at the site of construction for the specific purpose of incorporation therein, shall be exempt from taxation except for state purposes, while the vessel is under construction within this state.

History.—Added by Stats. 1958 (First Extra Session), p. 251, in effect July 23, 1958. Stats. 1959, p. 2190, in effect May 5, 1959, substituted "50 tons burden or 100 tons displacement" for "1,000 tons burden."

Construction.—As used in this section the term ''tons burden'' refers to the net tons of the vessel and not the gross tons. *Favalora* v. *Humboldt County,* 55 Cal.App.3d 969. The legislative intent behind this section was to provide a separate form of local tax relief for the California shipbuilding industry without restriction as to the nature of the contemplated maritime use of the vessel under construction. *Kaiser Steel Corp.* v. *Solano County,* 90 Cal.App.3d 662.

210. **Householders.** [Repealed by Stats. 1979, Ch. 516, in effect January 1, 1980.]

210.5. **Surviving spouse of established household.** [Repealed by Stats. 1979, Ch. 516, in effect January 1, 1980.]

211. **Trees and vines.** (a) The exemption of fruit- and nut-bearing trees until four years after the season in which they were planted in orchard form and grapevines until three years after the season in which they were planted in vineyard form is as specified in subdivision (i) of Section 3 of Article XIII of the Constitution. For purposes of exemption pursuant to this subdivision, any fruit- or nut-bearing tree, or any grapevine, severely damaged during the exemption period by the December 1990 freeze so as to require pruning to the trunk or bud union to establish a new shoot as a replacement for the damaged tree or grapevine, shall be considered a new planting in orchard or vineyard form. For purposes of exemption pursuant to this subdivision, any fruit- or nut-bearing tree severely damaged during the exemption period by the December 1998 freeze so as to require pruning to the trunk or bud union to establish a new shoot as a replacement for the damaged tree shall be considered a new planting in orchard form.

(b) The exemption of timber is as specified in subdivision (j) of Section 3 of Article XIII of the Constitution and Section 436.

History.—Added by Stats. 1974, Ch. 311, p. 594, in effect January 1, 1975. Stats. 1978, Ch. 1112, in effect January 1, 1979, deleted the work "orchard" and replaced it with the word "vineyard" and in the second sentence deleted the words "immature forest trees" and replaced it with the word "timber" and added "and Section 436.". Stats. 1991, Ch. 1034, in effect October 14, 1991, added subdivision letter (a) before "The exemption of fruit-", added the second sentence in subdivision (a), and added subdivision letter (b) before "The exemption of timber". Stats. 1999, Ch. 291 (SB 1014), in effect September 1, 1999, added the third sentence in subdivision (a).

Note.—Section 2 of Stats. 1991, Ch. 1034, provided that notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section relating to any exemption of property for more than five years or for more than 75 percent of the value thereof, shall not apply to any exemption made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

Note.—Section 2 of Stats. 1999, Ch. 291 (SB 1014) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

212. **Intangibles; money kept on hand.** (a) Notes, debentures, shares of capital stock, solvent credits, bonds, deeds of trust, mortgages, and any interest in that property are exempt from taxation.

(b) Money kept on hand to be used in the ordinary and regular course of a trade, profession, or business is exempt from taxation.

(c) Intangible assets and rights are exempt from taxation and, except as otherwise provided in the following sentence, the value of intangible assets and rights shall not enhance or be reflected in the value of taxable property. Taxable property may be assessed and valued by assuming the presence of intangible assets or rights necessary to put the taxable property to beneficial or productive use.

History.—Stats. 1967, p. 3905, in effect August 31, 1967, added "solvent credits" to first paragraph, and all of last paragraph. Stats. 1995, Ch. 498, in effect January 1, 1996, added the subdivision letters (a) and (b); substituted "that" for "such" after "interest in" in subdivision (a); and added subdivision (c).

Federal reserve and national bank notes.—Federal reserve notes and national bank notes are not exempted by this section. *Beery* v. *Los Angeles County,* 116 Cal.App.2d 290.

213. **Exhibits.** The exhibition exemption is as specified in this section.

Personal property which comes within all the following descriptions is exempt from taxation:

(a) The property is brought into this State exclusively for purposes of use or exhibition at any exposition, fair, carnival or public exhibit of literary, scientific, educational, religious or artistic works in this State and is used only for these purposes while in this State.

(b) It is intended to remove the property from the State following its use or exhibition here.

(c) The property is subject to taxation in some other state or a foreign country while in this State and all taxes due in the other state or country are paid when the exemption is claimed.

213.5. **Exempt property as polling place.** In partial consideration of the public services provided to property exempted from taxation by Section 214, the owner or person in possession shall permit the free use of such property or portion thereof as a polling place at any election conducted by the registrar of voters if the registrar makes written request for the use of such property at least 60 days before the date of the election. The registrar shall not be entitled to the use of any property used for the practice of religion if the owner or possessor files with him at least 45 days before the election an affidavit that (a) the space requested will be required for the ordinary and usual purposes of the owner or possessor on the day of the election, setting forth what such use will be, or (b) by reason of any contract, or condition, or covenant in a deed, made or delivered before July 1, 1965, the use of any portion of such property by the registrar of voters would breach such contract, condition, or covenant. The registrar shall not be entitled to the use of other property if an affidavit under (b) is filed with him.

As used in this section, registrar of voters means county clerk in counties having no registrar of voters.

A county using this section shall insure itself, its employees, the owner, and the person in possession of the property against any liability for any injury connected with the use of the property as a polling place.

Use of property under this section shall be considered to be exclusively for religious, hospital, or charitable purposes.

History.—Added by Stats. 1965, p. 2475, in effect September 17, 1965.

213.6. **Organization incorporated by act of Congress.** [Repealed by Stats. 1986, Ch. 74, effective April 25, 1986.]

213.6. **Organization incorporated by act of Congress.** (a) Personal property owned and operated by an organization incorporated by an act of the United States Congress whose purposes are to provide adequate facilities to assist in meeting local and national emergencies and to promote the public welfare and provide aviation and aerospace education and training which is used exclusively for those purposes shall be exempt from taxation, provided that the organization qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code.

(b) This section shall be effective commencing with the lien date in 1986.

History.—Added by Stats. 1986, Ch. 74, effective April 25, 1986. Stats. 1990, Ch. 126, in effect June 11, 1990, deleted "of 1954" after "Internal Revenue Code" in subdivision (a). Stats. 1996, Ch. 88, in effect January 1, 1997, deleted former subdivision (c) which stated: "This section shall remain in effect to and including the lien date in 1995, after which it shall become inoperative. This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date."

Note.—Section 3 of Stats. 1986, Ch. 74, provided that this act makes a classification or exemption of property for purposes of ad valorem property taxation within the meaning of Section 2229 of the Revenue and Taxation Code. Sec. 4, thereof provided that the Legislature finds and declares that the retroactive continuation of the exemption provided by this act serves a public purpose for all state and local governments inasmuch as the loss of the tax exemption would result in a major reduction in the ability of the Civil Air Patrol to provide necessary search and rescue/disaster relief programs on a statewide basis.

213.7. **Volunteer fire department property.** (a) As used in Section 214, ''property used exclusively for religious, hospital, scientific or charitable purposes'' shall include the property of a volunteer fire department which is used exclusively for volunteer fire department purposes, provided that the department qualifies for exemption either under Section 23701d or 23701f of this code or under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code. This section shall not be construed to enlarge the ''welfare exemption'' to apply to organizations qualified under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, but not otherwise qualified for the ''welfare exemption'' under other provisions of this code.

As used in this section, ''volunteer fire department'' means any fund, foundation or corporation regularly organized for volunteer fire department purposes, which qualified as an exempt organization on or before January 1, 1969, either under Section 23701d or 23701f of this code or under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, having official recognition and full or partial support of the government of the county, city or district in which such volunteer fire department is located, and which has functions having an exclusive connection with the prevention and extinguishing of fires within the area of the county, city or district extending official recognition for the benefit of the public generally and to lessen the burdens of the entity of government which would otherwise be obligated to furnish such fire protection.

(b) For purposes of subdivision (a), an organization shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor duplicate copies of a valid, unrevoked letter or ruling from either the Franchise Tax Board or, in the alternative, the Internal Revenue Service, which states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code.

History.—Added by Stats. 1968, p. 238, in effect November 13, 1968. Stats. 1969, p. 487, in effect November 10, 1969, added the language in the first sentence following the semicolon, the second sentence and the second paragraph. Stats. 1986, Ch. 1457, effective January 1, 1987, added the subdivision letters; added "either" after "exemption" in the first sentence of the first paragraph, and added "either" after "1969," in the first sentence of the second paragraph of subdivision (a); and added subdivision (b). Stats. 1990, Ch. 126, in effect June 11, 1990, substituted a comma for a semicolon before "provided", deleted "of 1954" before "This section" in the first paragraph of subdivision (a) and deleted "of 1954" before "having official" in the second paragraph of subdivision (a).

214. **Welfare exemption.** (a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation,

including ad valorem taxes to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978, or any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition, if:

(1) The owner is not organized or operated for profit. However, in the case of hospitals, the organization shall not be deemed to be organized or operated for profit if, during the immediately preceding fiscal year, operating revenues, exclusive of gifts, endowments and grants-in-aid, did not exceed operating expenses by an amount equivalent to 10 percent of those operating expenses. As used herein, operating expenses include depreciation based on cost of replacement and amortization of, and interest on, indebtedness.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(A) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to use of the property for either or both of the following described activities if that use is occasional:

(i) The owner conducts fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the owner and are used to further the exempt activity of the owner.

(ii) The owner permits any other organization that meets all of the requirements of this subdivision, other than ownership of the property, to conduct fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the organization, are not subject to the tax on unrelated business taxable income that is imposed by Section 511 of the Internal Revenue Code, and are used to further the exempt activity of the organization.

(B) For purposes of subparagraph (A):

(i) ''Occasional use'' means use of the property on an irregular or intermittent basis by the qualifying owner or any other qualifying organization described in clause (ii) of subparagraph (A) that is incidental to the primary activities of the owner or the other organization.

(ii) ''Fundraising activities'' means both activities involving the direct solicitation of money or other property and the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited.

(C) Subparagraph (A) shall have no application in determining whether paragraph (3) has been satisfied unless the owner of the property and any other organization using the property as provided in subparagraph (A) have

filed with the assessor duplicate copies of valid unrevoked letters or rulings from the Internal Revenue Service that state that the owner and the other organization qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code. The owner of the property and any other organization using the property as provided in subparagraph (A) also shall file duplicate copies of their most recently filed federal income tax returns.

(D) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to the use of the property for meetings conducted by any other organization if the meetings are incidental to the other organization's primary activities, are not fundraising meetings or activities as defined in subparagraph (B), are held no more than once per week, and the other organization and its use of the property meet all other requirements of paragraphs (1) to (5), inclusive, of subdivision (a). The owner of the other organization also shall file with the assessor duplicate copies of valid, unrevoked letters or rulings from the Internal Revenue Service or the Franchise Tax Board stating that the other organization, or the national organization of which it is a local chapter or affiliate, qualifies as an exempt organization under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code or Section 23701d, 23701f, or 23701w, together with duplicate copies of that organization's most recently filed federal income tax return, if the organization is required by federal law to file a return.

Nothing in subparagraph (A), (B), (C), or (D) shall be construed to either enlarge or restrict the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of their business or profession.

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where that use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose.

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation, or corporation organized and operated for religious, hospital, scientific, or charitable purposes.

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution that, in addition to complying with the foregoing requirements for the exemption of charitable organizations in general, has been chartered by the Congress of the United States (except that this requirement shall not apply when the scientific purposes are medical

research), and whose objects are the encouragement or conduct of scientific investigation, research, and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption." This exemption shall be in addition to any other exemption now provided by law, and the existence of the exemption provision in paragraph (2) of subdivision (a) of Section 202 shall not preclude the exemption under this section for museum or library property. Except as provided in subdivision (e), this section shall not be construed to enlarge the college exemption.

(b) Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(c) Property used exclusively for nursery school purposes and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(d) Property used exclusively for a noncommercial educational FM broadcast station or an educational television station, and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(e) Property used exclusively for religious, charitable, scientific, or hospital purposes and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations or educational institutions of collegiate grade, as defined in Section 203, which property and funds, foundations, corporations, or educational institutions meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. As to educational institutions of collegiate grade, as defined in Section 203, the requirements of paragraph (6) of subdivision (a) shall be deemed to be met if both of the following are met:

(1) The property of the educational institution is irrevocably dedicated in its articles of incorporation to charitable and educational purposes, to religious and educational purposes, or to educational purposes.

(2) The articles of incorporation of the educational institution provide for distribution of its property upon its liquidation, dissolution, or abandonment to a fund, foundation, or corporation organized and operated for religious, hospital, scientific, charitable, or educational purposes meeting the requirements for exemption provided by Section 203 or this section.

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

The amendment of this paragraph made by Chapter 1102 of the Statutes of 1984 does not constitute a change in, but is declaratory of, the existing law. However, no refund of property taxes shall be required as a result of this amendment for any fiscal year prior to the fiscal year in which the amendment takes effect.

Property used exclusively for housing and related facilities for elderly or handicapped families at which supplemental care or services designed to meet the special needs of elderly or handicapped residents are not provided, or that is not financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption pursuant to this subdivision unless the property is used for housing and related facilities for low- and moderate-income elderly or handicapped families. Property that would otherwise be exempt pursuant to this subdivision, except that it includes some housing and related facilities for other than low- or moderate-income elderly or handicapped families, shall be entitled to a partial exemption. The partial exemption shall be equal to that percentage of the value of the property that is equal to the percentage that the number of low- and moderate-income elderly and handicapped families occupying the property represents of the total number of families occupying the property.

As used in this subdivision, ‘‘low and moderate income’’ has the same meaning as the term ‘‘persons and families of low or moderate income’’ as defined by Section 50093 of the Health and Safety Code.

(g) (1) Property used exclusively for rental housing and related facilities and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations, including limited partnerships in which the managing general partner is an eligible nonprofit corporation, meeting all of the requirements of this section, or by veterans’ organizations, as described in Section 215.1, meeting all the requirements of paragraphs (1) to (7), inclusive, of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section and shall be entitled to a partial

exemption equal to that percentage of the value of the property that the portion of the property serving lower income households represents of the total property in any year in which either of the following criteria applies:

(A) The acquisition, rehabilitation, development, or operation of the property, or any combination of these factors, is financed with tax-exempt mortgage revenue bonds or general obligation bonds, or is financed by local, state, or federal loans or grants and the rents of the occupants who are lower income households do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(B) The owner of the property is eligible for and receives low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as added by Public Law 99-514.

(C) In the case of a claim, other than a claim with respect to property owned by a limited partnership in which the managing general partner is an eligible nonprofit corporation, that is filed for the 2000-01 fiscal year or any fiscal year thereafter, 90 percent or more of the occupants of the property are lower income households whose rent does not exceed the rent prescribed by Section 50053 of the Health and Safety Code. The total exemption amount allowed under this subdivision to a taxpayer, with respect to a single property or multiple properties for any fiscal year on the sole basis of the application of this subparagraph, may not exceed twenty thousand dollars ($20,000) of tax.

(2) In order to be eligible for the exemption provided by this subdivision, the owner of the property shall do both of the following:

(A) (i) For any claim filed for the 2000-01 fiscal year or any fiscal year thereafter, certify and ensure, subject to the limitation in clause (ii), that there is an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document that restricts the project's usage and that provides that the units designated for use by lower income households are continuously available to or occupied by lower income households at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflicts with Section 50053, rents that do not exceed those prescribed by the terms of the financing or financial assistance.

(ii) In the case of a limited partnership in which the managing general partner is an eligible nonprofit corporation, the restriction and provision specified in clause (i) shall be contained in an enforceable and verifiable agreement with a public agency, or in a recorded deed restriction to which the limited partnership certifies.

(B) Certify that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households.

(3) As used in this subdivision, ''lower income households'' has the same meaning as the term ''lower income households'' as defined by Section 50079.5 of the Health and Safety Code.

(h) Property used exclusively for an emergency or temporary shelter and related facilities for homeless persons and families and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. Property that otherwise would be exempt pursuant to this subdivision, except that it includes housing and related facilities for other than an emergency or temporary shelter, shall be entitled to a partial exemption.

As used in this subdivision, ''emergency or temporary shelter'' means a facility that would be eligible for funding pursuant to Chapter 11 (commencing with Section 50800) of Part 2 of Division 31 of the Health and Safety Code.

(i) Property used exclusively for housing and related facilities for employees of religious, charitable, scientific, or hospital organizations that meet all the requirements of subdivision (a) and owned and operated by funds, foundations, or corporations that meet all the requirements of subdivision (a) shall be deemed to be within the exemption provided for in subdivision (b) of Sections 4 and 5 of Article XIII of the California Constitution and this section to the extent the residential use of the property is institutionally necessary for the operation of the organization.

(j) For purposes of this section, charitable purposes include educational purposes. For purposes of this subdivision, ''educational purposes'' means those educational purposes and activities for the benefit of the community as a whole or an unascertainable and indefinite portion thereof, and shall not include those educational purposes and activities that are primarily for the benefit of an organization's shareholders. Educational activities include the study of relevant information, the dissemination of that information to interested members of the general public, and the participation of interested members of the general public.

History.—Added by Stats. 1945, p. 706, in effect September 15, 1945. Stats. 1949, p. 1150, in effect October 1, 1949, added (7). Stats. 1951, p. 502, in effect December 27, 1952, after approval by the voters upon a referendum petition, deleted "or to extend an exemption to property held by or used as an educational institution of less than collegiate grade" at end of third sentence of last paragraph and added last sentence. Stats. 1953, p. 1994, in effect May 18, 1953, specifically declared the express intention of the Legislature to be that the amendment be effective as of January 1, 1953, and as to all taxes levied or to be levied on or after said date, added portion of (1) following first semicolon; substituted present provisions of (3) for former provisions reading "The property is not used or operated by the owner or by any other person for profit regardless of the purposes to which the profit is devoted." Stats. 1955, p. 2034, in effect September 7, 1965, added provision in parentheses in (7). Stats. 1965, p. 2471, in effect September 17, 1965, added the third paragraph. Stats. 1966, p. 605 (First Extra Session), in effect October 6, 1966, added the fourth paragraph. Stats. 1968, p. 1327, in effect November 13, 1968, added the language following "exempt activity" in (3) and the fifth paragraph. Stats. 1969, p. 3168, in effect November 10, 1969, added "or Section 236 of Public Law 90-448 (12 U.S.C. 1715z)" to the fifth paragraph relating to housing for the elderly and handicapped. Stats. 1974, Ch. 311, p. 594, in effect January 1, 1975, substituted "subdivision (b) of Section 4 and Section 5" for "Section 1c" in the last sentence of the second paragraph, and in the first sentences of the third, fourth and fifth paragraphs; and added the sixth paragraph. Stats. 1978, Ch. 1112, in effect January 1, 1979, deleted the sixth paragraph of the section which provided "property used exclusively for sheltering more than 20 orphan or half-orphan children receiving state aid meeting all the requirements of this section shall be deemed to be within the exemption provided for in this subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution and this section." Stats. 1979, Ch. 1188, in effect September 30, 1979, added "and the existence of the exemption provision in paragraph (2) of subdivision (a) of Section 202 shall not preclude the exemption under this

section for museum or library property" after "law" in the second sentence of the second paragraph. Stats. 1984, Ch. 1102, in effect January 1, 1985, added "low- and moderate-income" after "for" and ", including but not limited to," after "financed by" in the first sentence, and added the second and third sentences to the fifth paragraph; and added the sixth and seventh paragraphs. Stats. 1985, Ch. 542, effective January 1, 1986, lettered the former first paragraph as (a), substituted a period for a semicolon after "indebtedness" in subsection (1), after "individual" in subsection (2), after "purpose" in subsection (3), after "profession" in subsection (4), after "purpose" in subsection (5), and after "purposes" in subsection (6) thereof, and substituted "Except as provided in subdivision (e), this" for "This" before "section" in the third sentence of the second paragraph thereof; lettered the former fourth sentence of the former second paragraph as (b), and substituted "subdivision (a)" for "this section" after "requirements of" therein; lettered the former third paragraph as (c), and substituted "subdivision (a)" for "this section" therein; lettered the former fourth paragraph as (d), and substituted "subdivision (a)" for "this section" therein; added subdivision (e); lettered the former fifth paragraph as (f), deleted "low- and moderate-income" after "related facilities for", added "Sec." before "1701q", added "Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v)," after "as amended," deleted "z" after "1715", and added "Sec." before "1715" therein; added the first sentence to the former sixth paragraph, now the second paragraph of subdivision (f), and substituted "this subdivision" for "the preceding paragraph" after "pursuant to" in the second sentence thereof; and substituted "subdivision" for "section" after "this" in the former seventh paragraph, now the third paragraph of subdivision (f). Stats. 1986, Ch. 29, effective March 21, 1986, added the second sentence of the first paragraph to subdivision (e) and added subsections (e)(1) and (e)(2). Stats. 1987, Ch. 1469, in effect January 1, 1988, added commas in subdivisions (b), (c) and (f) after "foundations", added commas in subdivisions (b) and (c) after "hospital", added comma in subdivision (d) after "scientific", added a hyphen after "low" in first sentence of second paragraph of subdivision (f), and added subdivision (g). Stats. 1988, Ch. 77, in effect April 14, 1988, added subdivision (h). Stats. 1988, Ch. 1591, in effect January 1, 1989, added subparagraphs (A), (B), and (C) to subdivision (a)(3); added subdivision (i). Stats. 1989, Ch. 1292, in effect January 1, 1990, replaced semi-colon with a period and deleted "provided, that" in the first sentence, added "However," before "in the case", and substituted "the" for "such" before "organization", "has not" for "shall not have" after "over operating expenses", and "those" for "such" after "10 percent of" in the second sentence, of subdivision (a)(1); substituted "that" for "such" in subdivision (a)(5); added "California" before "Constitution" and deleted "of the State of California" after "Constitution" throughout the section; and added subdivision (j). Stats. 1990, Ch. 161, in effect January 1, 1991, added subparagraph (D) to subdivision (a)(3); deleted "or" after "(B)" and added ", or (D)" after "(C)" in the second paragraph of subdivision (a)(3); added a comma after "1715v)" in the first sentence of the first paragraph of subdivision (f); deleted "the" after "Section 236 of" in the second paragraph of subdivision (f); deleted a hyphen between "lower" and "income" in the first paragraph and in subparagraphs (1), (2) and (3) of subdivision (g); and inserted a hyphen between "tax" and "exempt" in subparagraph (2) of subdivision (g). Stats. 1992, Ch. 1180, in effect January 1, 1993, added "or the Franchise Tax Board" after "Service" and added "or Section 23701d . . . code" after "Revenue Code" in the second sentence of subparagraph (D) of subdivision (a)(3); substituted "organizations" for "organization" after "charitable" in the first paragraph of subdivision (a)(7); added "(1)" after "(g)" and added ", or by veterans' . . . subdivision (a)," after "this section" in the newly created subdivision (g)(1); relettered former paragraphs (1), (2), and (3) of subdivision (g) as subparagraphs (A), (B), and (C), respectively, of newly created subdivision (g)(1); added "(2)" before "In order", creating a new paragraph from the former second paragraph of subdivision (g); substituted "that" for "which" after "document" and after "usage and" in subparagraph (A) of the newly created subdivision (g)(2); and added "(3)" before "As used", creating a new paragraph from the former third paragraph of subdivision (g). Stats. 1995, Ch. 497, in effect January 1, 1996, added ", including ad valorem . . . on the proposition," after "from taxation" in the first paragraph, substituted "immediately" for "immediate" after "during the" in paragraph (1), and substituted ", 23707f, or 23701w" for "or 23701f" after "Section 23701d" in paragraph (3)(D) of subdivision (a), and substituted "1715z" for "1715" after "(12 U.S.C. Sec." in the first sentence of the second paragraph of subdivision (f). Stats. 1996, Ch. 124, in effect January 1, 1997, substituted "if," for ",if" after "operated for profit", deleted ",the excess of" after "preceding fiscal year", and substituted ",did not exceed operating expenses by an amount" for "over operating expenses has not exceeded by a sum" after "grants-in-aid" in the second sentence and substituted "expenses include" for "expenses shall include" after "as used herein" in the third sentence of paragraph (1) of subdivision (a); substituted "Internal Revenue Code" for "Internal Revenue Code of 1986" three times in clauses (i) and (ii) of subparagraph (A) and subparagraph (D); substituted "also shall" for "shall also" in subparagraph (C), and deleted "of this code" after "23701w" in subparagraph (D) of paragraph (3), added a comma after "charges or compensations" in paragraph (4) of subdivision (a); added a comma after "educational television station" in subdivision (d); substituted "by Chapter 1102 of the Statutes of 1984" for "at the 1983–84 Regular Session of the Legislature" in the second sentence of the first paragraph, and substituted "the property represents" for "the property is" in the third sentence of the second paragraph of subdivision (f); substituted "represents" for "is" after "lower income households" in the first sentence of paragraph (1) of subdivision (g);substituted "rents that do" for "rents do" after "Section 50053," in subparagraph (A) of paragraph (2) of subdivision (g); substituted "Property that otherwise would" for "Property which would otherwise" in the second sentence of the first paragraph of subdivision (h); substituted " "educational purposes" " for "educational purposes", substituted "activities that are primarily" for "activities primarily" in the first sentence, and deleted "shall" after "Educational activities" in the second sentence of subdivision (j); and substituted "that" for "which" throughout text. Stats. 1998, Ch. 695 (SB 2235), in effect January 1, 1999, deleted "or" after "Sec. 1715v)" and added "or Section 811 . . . Sec 8013)," after "Sec. 1715z)," twice, in the first sentence of the first paragraph and the first sentence of the second paragraph of subdivision (f). Stats. 1999, Ch. 927 (AB 1559), in effect October 10, 1999, operative January 1, 2000, added a comma after "fiscal year" in the first sentence of paragraph (1), deleted a comma after "Revenue Code" in the second sentence of subparagraph (D) of paragraph (3), added a comma after "foundation" in the first sentence of paragraph (6), added a comma after "investigation, research" in the first sentence of the first paragraph and added a comma after "law" in the second sentence of the second paragraph of paragraph (7) of subdivision (a); substituted "either of the following criteria applies" for "any of the following criteria are applicable" after "year in which" in the first sentence, deleted former subparagraph (A), which provided that a property would qualify on the basis that twenty percent or more of the occupants of the property are lower income households whose rent does not exceed that prescribed by Section 50053 of the Health and Safety Code, and relettered former subparagraph (B) and (C) as subparagraph (A) and (B), respectively, in paragraph (1), and added "an enforceable and verifiable agreement with a public agency or," after "there is", substituted "a recorded" for "a" before "deed restriction," and deleted "agreement, or other legal document" after "deed restriction," in the first sentence of subparagraph (A) of paragraph (2) of subdivision (g). Stats. 2000, Ch. 601 (AB 659), in effect September 24, 2000, added subparagraph (C) to paragraph (1); designated former subparagraph (A) of paragraph (2) as clause (i), substituted "For any claim filed for the 2000-01 fiscal year or any fiscal year thereafter, certify and ensure, subject to the limitation of clause (ii)," for "Certify and ensure"

before "that there", and added "or other legal document," after "deed restriction," in the first sentence therein; and added clause (ii) to subparagraph (A) of paragraph (2) of subdivision (g). Stats. 2001, Ch. 159 (SB 662) in effect January 1, 2002, added a comma after "year" in the first sentence of paragraph (1), substituted "of" for "or" after "owner" and deleted a comma after "Code" in the second sentence of subparagraph (D) of paragraph (3), added a comma after "foundation" in paragraph (6) of subdivision (a); deleted "or" after "agency" and deleted a comma after "document" in the first sentence of clause (i) of subparagraph (A) of paragraph (2) of subdivision (g).

Note.—Section 2 of Stats. 1986, Ch. 29, provided that the amendment of subdivision (e) in Section 214 of the Revenue and Taxation Code made by Section 1 of this act shall be operative for the 1986–87 fiscal year and fiscal years thereafter.

Note.—Section 3 of Stats. 1985, Ch. 542, provided that the addition of subdivision (e) to Section 214 of the Revenue and Taxation Code made by Section 2 of this act shall be operative for the 1986–87 fiscal year and fiscal years thereafter.

Note.—Section 3.5 of Stats. 1985, Ch. 542, provided that the amendment of subdivision (f) of Section 214 of the Revenue and Taxation Code by Section 2 of this act is operative for the 1985–86 fiscal year and fiscal years thereafter.

Note.—Section 9 of Stats. 1979, Ch. 1188, provided that under existing provisions of Section 214 of the Revenue and Taxation Code, the Welfare exemption from property taxes provided by Section 214 is specifically "in addition to any other exemption now provided by law." It has been the legislative intent that the exemption provided by Section 214 be in addition to and not in limitation of any other exemptions provided by other provisions of the Revenue and Taxation Code or the California Constitution. The purpose of the amendments to Section 214 is to reaffirm such legislative policy with respect to museum and library property. Sec. 11 thereof provided that the changes made by Section 1.5 of this act are declarative of existing law, and that it is the intent of the Legislature that Section 1.5 be applied to determine the eligibility of exemptions under Section 214 of the Revenue and Taxation Code for any property otherwise taxable on March 1, 1979. Section 13 thereof provided no payment by state to local governments because of this act.

Note.—Sec. 2 of Stats. 1984, Ch. 1102, in effect January 1, 1985, provided no payment by state to local governments because of this act.

Note.—Section 3 of Stats. 1987, Ch. 1228, provided that this act makes a classification or exemption of property for purposes of ad valorem taxation within the meaning of Section 2229 of the Revenue and Taxation Code. Sec. 4 thereof provided that the amendment made by this act shall be operative for the 1988–89 fiscal year and fiscal years thereafter.

Note.—Section 2 of Stats. 1987, Ch. 1469, provided that this act makes a classification or exemption of property for purposes of ad valorem taxation within the meaning of Section 2229 of the Revenue and Taxation Code. Sec. 3 thereof provided that the amendments made by this act shall be operative for the 1988–89 fiscal year and each fiscal year thereafter.

Note.—Section 2 of Stats. 1988, Ch. 1591 provided that the amendments to the section made by this act do not constitute a change in, but are declaratory of existing law. Sec. 3 thereof provided that the Legislature finds and declares that these amendments are codification of Board practice. Therefore, no escape assessments shall be levied and no refunds made as a result of the enactment of this act. Sec. 4 thereof provided that notwithstanding Section 2229, the requirements of that section relating to any exemption of property for more than 5 years or for more than 75 percent of the value thereof shall not apply to any exemptions made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

Note.—Section 2 of Stats. 1989, Ch. 1292, stated that the amendment of this Section made at the 1989–90 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

Note.—Section 30 of Stats. 1993, Ch. 1187, provided that the amendments made by Chapter 1180 of the Statutes of 1992 to subdivision (g) of Section 214, relating to veterans' organizations, shall be operative with respect to taxes levied for the 1989–90 fiscal year and each fiscal year thereafter.

Note.—Section 5 of Stats. 1999, Ch. 927 (AB 1559) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Section 6 thereof provided that the provisions of this act shall apply on and after the January 1, 2000, lien date.

Note.—Section 4 of Stats. 2000, Ch. 601 (AB 659) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

Boys' camp.—Property was used in the actual operation of a charitable boys' camp where it was not a part of the main campground, but was used for roads, trails, and overnight campsites. The fact the club had excess timber logged from a portion of the land was consistent with prudent management of the land and did not destroy the exemption. *San Francisco Boy's Club, Inc.* v. *Mendocino County,* 254 Cal.App.2d 548.

Hospital property.—The welfare exemption extends to the property of a hospital devoted to the housing of essential hospital personnel, to the conduct of a nurses' training school operated in connection with the hospital, and to a tennis court maintained as a recreational facility for hospital employees. Hospital buildings under construction but not yet in use and a "thrift shop" operated for the sale of donated clothing, the proceeds therefrom being devoted to the maintenance of a free children's clinic, are not exempt. *Cedars of Lebanon Hospital* v. *Los Angeles County,* 35 Cal.2d 729.

The 1953 amendment, providing that a hospital shall not be deemed operated for profit if during the preceding fiscal year the excess of income over expenses did not exceed 10 percent of the expenses, contravenes the prohibition against gifts of public money of Section 31 of Article IV of the State Constitution insofar as it is expressly made retroactive as to all taxes levied on or after January 1, 1953, since the right to tax moneys for the year 1953–54, due November 1, 1953, vested in the state on the lien date, the first Monday in March, whereas the amendment was not enacted until May 18, 1953, and the amendment does not compel a hospital to use the 10 percent profit exclusively for such hospital purposes as would also be proper public purposes. *Doctors General Hospital* v. *Santa Clara County,* 150 Cal.App.2d 53.

A hospital with net operating revenue in excess of ten percent of operating expenses is not automatically precluded from invoking the welfare exemption. Legislative history of Section 214(a)(1) indicates an intent not to deny the exemption to a non-profit hospital using such excess revenue for debt retirement, facility expansion or operating cost contingencies but rather, to merely require that the hospital is, in fact, not operated for profit and meets other statutory requirements for exemption. *Rideout Hospital Foundation, Inc.* v. *Yuba County,* 8 Cal.App.4th 214.

Property of religious institution.—The entire retreat house of a qualified nonprofit religious institution, including that part used for living quarters for priests and laybrothers whose presence on the retreat property is essential in carrying out the religious and charitable activities of the retreat, is exempt from taxation. *Serra Retreat* v. *Los Angeles County,* 35 Cal.2d 755.

The test for determining whether property is used exclusively for religious or charitable purposes is not whether such property is essential, indispensable and necessary for the accomplishment of such purposes, but whether the use is incidental to and reasonably necessary for the accomplishment of such purposes; thus, the exemption applies to temporary, low-cost housing facilities for missionaries on furlough and for other religious workers who work in establishing Christian purposes throughout the world. *House of Rest* v. *Los Angeles County,* 151 Cal.App.2d 523.

Exemption applies to property principally used for religious instruction and the sale of religious books, the profit of which is dedicated toward religious purposes. *St. Germain Foundation* v. *County of Siskiyou,* 212 Cal.App.2d 911.

The actual use required by subparagraph (3) is not limited to ''actual physical use.'' Exempt nonphysical uses of a religious retreat may include use of nearby areas surrounding trails for meditation and of more remote hilltops for a buffer. *Christward Ministry* v. *San Diego County,* 271 Cal.App.2d 805.

A swimming pool, tennis courts, locker rooms and sauna owned by a church did not qualify as property used for religious purposes where the primary user of these facilities was a boosters organization, not the church. At the very least, the term ''exclusive use'' must mean that the property is used primarily for exempt purposes. *Peninsula Covenant Church* v. *San Mateo County,* 94 Cal.App.3d 382.

A tax exempt lessor of a church will not be disqualified from receiving the welfare exemption by leasing the church to another exempt organization where such leasing arrangement is not intentionally profit-making or commercial in nature. *Christ The Good Shepherd Lutheran Church of San Jose* v. *Dwight L. Mathiesen,* et al., 81 Cal.App.3d 355.

Y.M.C.A. property.—Portions of Y.M.C.A. buildings devoted to dormitory accommodations are within the welfare exemption even though a moderate charge is made for such accommodations, where there is no real profit motive, the dormitory portions operate at a loss and are incidental to and reasonably necessary for the accomplishment of the organization's religious and charitable purposes. Portions of Y.M.C.A. buildings devoted to a restaurant, a barbershop, a valet shop and a ''gym store,'' all of which are open to the public as well as to Y.M.C.A. members, a meeting room where meals are served to outside groups and office rooms rented to the Selective Service Board are not, however, entitled to exempt status. *Young Men's Christian Ass'n* v. *Los Angeles County,* 35 Cal.2d 760. Y.M.C.A.'s health club facility served valid charitable purposes, benefiting the community as a whole, so as to qualify it for a charitable property tax exemption. All its activities had some potentially valid charitable purpose, and it was unrealistic to analyze the degree of community benefit for each category of activity offered by the organization, since all activities were conducted in the same building, directed by the same staff, and often shared the same sources of financial support and the same overhead costs. And it was immaterial that the facility competed with private health clubs, since a charitable enterprise does not lose its exemption merely because it engages in competition with businesses that are subject to taxation. *Clubs of California for Fair Compet.* v. *Kroger*, 7 Cal.App.4th 709.

Charges and entrance requirements.—A nonprofit corporation operating a home for aged people on a ''life care contract'' basis is entitled to the welfare exemption even though it requires that each applicant for admission pay an entry charge and meet the approval of the board of directors after a three-month probationary period, where the payments made by the elderly residents are within the reach of persons of limited means and are not commensurate with the benefits they receive, there is no element of private gain, and all the income of the corporation, approximately 65 percent being received from residents and the balance from gifts and other sources, is devoted exclusively to affording a reasonable standard of care to the aged persons. The portion of the corporation's property used to house personnel whose presence on its property constitutes an institutional necessity is also entitled to the exemption. *Fredericka Home* v. *San Diego County,* 35 Cal.2d 789.

A home for the aged which caters to wealthy persons and furnishes them the services and care needed by the old and infirm, rich or poor, does not cease to be a charitable institution so long as its charges do not yield more than actual cost of operation. *Fifield Manor* v. *Los Angeles County,* 188 Cal.App.2d 1.

Profit, prior law.—Prior to the 1953 amendment, a nonprofit hospital purposely operating to produce a surplus of income over expenses, and making a surplus of slightly more than 8 percent of gross income to retire bonded indebtedness and expand facilities was not exempt. *Sutter Hospital* v. *City of Sacramento,* 39 Cal.2d 33.

A hospital's main hospital building, living quarters for resident personnel, and a building used for a nursing school were exempt in 1951, notwithstanding the corporation made a surplus of $130,400 (4.4 percent of gross receipts), principally from certain properties for which it did not claim exemption, consisting of a parking lot for use by doctors who patronized the hospital and a building housing a pharmacy, offices rented to various doctors and dentists, and a coffee shop, where evidence supported the trial court's findings that the properties for which exemption was claimed and the hospital as owner were organized and operated for hospital and charitable purposes and were not organized and operated for profit. *St. Francis Memorial Hospital* v. *San Francisco,* 137 Cal.App.2d 321.

Presentation of concerts by paid professional artists does not result in a more advantageous pursuit of their profession and deny the exemption to an otherwise qualified nonprofit organization. *Greek Theater Assn.* v. *Los Angeles County.* 76 Cal.App.3d 768.

Island, open space property was used exclusively for charitable purposes even though fees were charged to the public in connection with certain activities conducted on the property and even though the former owner of the property and an independent contractor derived profits from motor tours and a hunting program. In addition to recreational uses, the Conservancy's preservation of the unique, partly wild, island environment containing exceptional geological features and rare plant and animal species provided incalculable benefit to all members of society. *Santa Catalina Island Conservancy* v. *Los Angeles County,* 126 Cal.App.3d 221.

More Advantageous Pursuit.—A facility conducting research under an agreement granting exclusive license options to develop, market, and sell research products in exchange for research funding provided by the optionee was not property used for the more advantageous pursuit of the optionee's business because the agreement was an arms'-length transaction that did not result in consideration above fair market value. *Scripps Clinic & Research Foundation* v. *San Diego County,* 53 Cal.App.4th 402.

Irrevocable dedication to exempt purposes.—This requirement is not violated by the possibility of diversion, through sale or otherwise, of any particular piece or portion of the property to nonexempt uses provided the proceeds thereof are irrevocably dedicated to exempt purposes. Property is not so irrevocably dedicated if the articles of incorporation of the owner permit present use for and permanent diversion of the property to nonexempt purposes even though the owner's use of the property, both past and present, has been for exempt purposes. *Pasadena Hospital Ass'n, Ltd.* v. *Los Angeles County,* 35 Cal.2d 779.

The requirement is satisfied where the property is impressed with a charitable trust for exempt purposes by virtue of the express declaration of such purposes in the articles of incorporation of the owner, even though in the event of dissolution the property will pass to a successor which is organized for nonexempt, as well as exempt, purposes. *Pacific Home* v. *Los Angeles County,* 41 Cal.2d 844 and 41 Cal.2d 855.

The requirement is also satisfied absent an express declaration where the articles of incorporation construed as a whole show the corporation is organized for charitable purposes. The assets are then impressed with a trust and can be used by a successor organized for charitable as well as nonexempt purposes, for charitable purposes only. *Stockton Civic Theatre* v. *Board of Supervisors,* 66 Cal.2d 13.

Note.—After 1966, see Section 214.01.

Educational purposes.—The property of a corporation whose articles permit use of the property for educational purposes is not irrevocably dedicated to exempt purposes and the welfare exemption does not extend to such property. (Based on the section as it existed prior to the 1951 amendment enlarging its scope as to educational purposes.) *Moody Institute of Science* v. *Los Angeles County,* 105 Cal.App.2d 107; *Goodwill Industries* v. *Los Angeles County,* 117 Cal.App.2d 19.

A nonprofit corporation whose sole purpose is to conduct a girls' school of less than collegiate grade and whose articles prohibit individual profit and provide for distribution to a religious benevolent or charitable corporation or fund in case of dissolution is organized for charitable purposes. *Sarah Dix Hamlin School* v. *San Francisco City and County,* 221 Cal.App.2d 336.

As is true of vocational schools generally the property of an educational institution which trains personnel for the funeral-service industry does not qualify for the welfare exemption as property used exclusively for charitable purposes in that its activities do not benefit the community as a whole or an unascertainable and indefinite portion thereof. *California College of Mortuary Science* v. *Los Angeles County,* 23 Cal.App.3d 702.

A construction industry vocational training school operated under a trust created by a labor union and construction industry employers pursuant to a collective bargaining agreement does not qualify for the exemption where the trust was primarily intended to benefit and did primarily benefit the union and the employers rather than the community in general. *Alcoser* v. *San Diego County,* 111 Cal.App.3d 907.

Special assessments.—The real property of an institution qualifying for the welfare exemption from taxation under this section is not exempt from special assessments, such as those imposed under authority of the Los Angeles County Flood Control Act. *Cedars of Lebanon Hospital* v. *Los Angeles County,* 35 Cal.2d 729 (hospital property); *Young Men's Christian Ass'n* v. *Los Angeles County,* 35 Cal.2d 760 (Young Men's Christian Association property).

School property.—The 1951 amendment of this section, approved by the voters on referendum at the general election of 1952, providing for the exemption of property "used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital or charitable funds, foundations or corporations," is valid under the State and Federal Constitutions. *Lundberg* v. *Alameda County,* 46 Cal.2d 644; appeal dismissed in a companion case, *Heisey* v. *Alameda County,* 352 U.S. 921.

Museum Property.—A qualifying nonprofit organization may qualify for the welfare exemption, the free museum exemption, or both, the use of property for a free museum being a charitable activity, and facilities in the course of construction on the lien date intended as a free museum are eligible for the welfare exemption. *J. Paul Getty Museum* v. *Los Angeles County,* 148 Cal.App.3d 600.

Interest payable from net earnings.—A part of the net earnings of a hospital does not inure to the benefit of private shareholders or individuals within the purview of subdivision (2) of this section by reason of the payment of interest upon certain promissory notes issued by the hospital which are in the form of an obligation to pay only out of "net earnings" rather than the usual absolute, unqualified obligation. *St. Francis Memorial Hospital* v. *San Francisco,* 137 Cal.App.2d 321.

Course of Construction.—A building is in the course of construction within the meaning of former Article XIII, Section 1c, when at noon on the first Monday in March some trenches for the foundation of the building had been dug. *National Charity League, Inc.* v. *Los Angeles County,* 164 Cal.App.2d 241.

Low-rental housing for the elderly and handicapped.—The 1968 and 1969 amendments did not exempt all low-rental housing from taxation; rather, they included only that housing financed pursuant to the specified federal programs, which provide low-interest, long-term federal loans whereby the savings may be passed on to the tenants in the form of lower rents. *Martin Luther Homes* v. *Los Angeles County,* 12 Cal.App.3d 205.

Municipal property.—City property operated by the Parks and Recreation Department exclusively for the purpose of furnishing camping facilities to persons and organizations at less than cost was not eligible for the welfare exemption since the city was not operated exclusively for charitable purposes and the Parks and Recreation Department was neither a separately organized nor an autonomous agency of the city capable of itself qualifying for the exemption. *City of Los Angeles* v. *Los Angeles County,* 19 Cal.App.3d 968.

Possessory interest.—Property ''owned'', as used in the section, includes possessory interests, and a qualifying charitable organization's leasehold interest in public property was exempt under the section where the organization used the leasehold for charitable purposes. *Tri-Cities Children's Center, Inc.* v. *Board of Supervisors,* 166 Cal.App.3d 589.

Note.—See Constitutional Provisions, Art. XIII, § 4, subtitle ''Educational Purposes.''

214.01. **Welfare exemption: Irrevocable dedication.** For the purpose of Section 214, property shall be deemed irrevocably dedicated to religious, charitable, scientific, or hospital purposes only if a statement of irrevocable dedication to only these purposes is found in the articles of incorporation of the corporation, or in the case of any other fund or foundation, or corporation chartered by an act of Congress, in the bylaws, articles of association, constitution, or regulations thereof, as determined by the State Board of Equalization.

If, when performing the duties specified by Section 254.5, the board finds that an applicant for the welfare exemption is ineligible therefor, because at the time of the filing of the affidavit required by Section 254.5, the applicant's articles of incorporation, or in the case of any noncorporate fund or foundation, its bylaws, articles of association, constitution or regulations, did not comply with the provisions of this section, the board shall notify the applicant in writing. The applicant shall have until the next succeeding lien date to amend its articles of incorporation, or in the case of any noncorporate fund or foundation, its bylaws, articles of association, constitution or regulations, and to file a certified copy of such amendments that conform to the provisions of this section with the board, and the board shall make a finding that the applicant, if otherwise qualified, is eligible for the welfare exemption and forward such finding to the assessor.

History.—Added by Stats. 1966, p. 656 (First Extra Session), in effect October 6, 1966. Stats. 1967, p. 1311, operative March 1, 1968, added "or corporation chartered by an act of Congress" and "as determined by the State Board of Equalization" to first paragraph and added last paragraph. Stats. 1969, p. 264, in effect May 27, 1969, substituted "until the next succeeding lien date" for "six months from the date of the mailing of such notice" and revised, without substantive change, the second and third sentences, of the second paragraph.

214.02. **Welfare exemption; property in its natural state.** (a) Except as provided in subdivision (b) or (c), property that is used exclusively for the preservation of native plants or animals, biotic communities, geological or geographical formations of scientific or educational interest, or open-space lands used solely for recreation and for the enjoyment of scenic beauty, is open to the general public subject to reasonable restrictions concerning the needs of the land, and is owned and operated by a scientific or charitable fund, foundation or corporation, the primary interest of which is to preserve those natural areas, and that meets all the requirements of Section 214, shall be deemed to be within the exemption provided for in subdivision (b) of Sections 4 and 5 of Article XIII of the Constitution of the State of California and Section 214.

(b) The exemption provided by this section shall not apply to any property of an organization that owns in the aggregate 30,000 acres or more in one county that were exempt under this section prior to March 1, 1983, or that are proposed to be exempt, unless the nonprofit organization that holds the property is constituted in such a way as to be fully independent of the owner of any taxable real property that is adjacent to the property otherwise qualifying for tax exemption under this section. For purposes of this section, the nonprofit organization that holds the property shall be considered fully independent if the exempt property is not used or operated by that organization or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor or bondholder of the exempt organization or operator, or the owner of any adjacent property, or any other person, through the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of their business or profession.

(c) The exemption provided by this section shall not apply to property that is reserved for future development.

(d) This section shall be operative from the lien date in 1983 to and including the lien date in 2012, after which date this section shall become inoperative, and as of January 1, 2013, this section is repealed.

History.—Added by Stats. 1971, Ch. 1 (First Extra Session) in effect December 8, 1971, operative on the lien date in 1972. Stats. 1974, Ch. 311, p. 596, in effect January 1, 1975, substituted "of Section 214" for "of this section", and substituted "subdivision (b) of Section 4 and Section 5" for "Section 1c". Stats. 1982, Ch. 1485, in effect January 1, 1983, operative March 1, 1983, added "(a) Except as provided in subdivision (b) or (c)" before "property" at the beginning of the first sentence, and added subdivisions (b) and (c). Stats. 1992, Ch. 786; in effect January 1, 1993, added subdivision (d). Stats. 1993, Ch. 589, in effect January 1, 1994, added "that is" after "property", deleted "or" after "animals," and after "communities,", deleted "and which property" after "beauty," added a comma after "land", substituted "those" for "such" after "preserve", and substituted "that" for "which" after "areas, and" in subdivision (a); substituted "that" for "which" throughout subdivision (b), and substituted "that are" for "which" in the first sentence of subdivision (b); and substituted "that" for "which" after "property" in subdivision (c). Stats. 2001, Ch. 533 (SB 198), in effect October 5, 2001, substituted "2012" for "2002" after "lien date in" and substituted "2013" for "2003" after "January 1," in the first sentence of subdivision (d).

Note.—Stats. 1971, p. 5133 (First Extra Session), provided that this section shall remain operative to and including the lien date in 1981 and shall have no further force or effect after such date.

Note.—Section 3 of Stats. 1992, Ch. 786, provided that notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section relating to any exemption of property for more than five years or for more than 75 percent of the value thereof shall not apply to any exemptions made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

Note.—Section 2 of Stats. 2001, Ch. 533 (SB 198) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

Construction.—This section is a valid exercise of the Legislature's power under Article XIII, Section 4(b) of the Constitution. *Santa Catalina Island Conservancy* v. *Los Angeles County,* 126 Cal.App.3d 221.

214.05. **Welfare exemption; unrelated business taxable income.** For purposes of Section 214:

(a) If the property of an organization is granted an exemption pursuant to Section 214, that property is deemed to be used exclusively for the organization's exempt purposes. However, to the extent that income derived from the organization's use of the property is unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, and the regulations implementing that section, and is subject to the tax on unrelated

business taxable income which is imposed by Section 511 of the Internal Revenue Code, the property shall be exempt from taxation under Section 214 only to the extent provided in subdivision (b) or (c).

(b) (1) If the use of property which has qualified for the welfare exemption under Section 214 involves activities of the organization, some of which produce income that is exempt from income or franchise taxation and some of which produce income that is taxable as unrelated business taxable income, and those activities are attributable to a reasonably ascertainable portion of the entire property, that portion of the property shall be entitled only to a partial exemption from property taxation equal to that proportion of the total value of the portion of the property which the amount of income of the organization that is exempt from income or ranchise taxation and that is attributable to that portion bears to the total amount of income of the organization that is attributable to that portion. The remaining proportion of the total value of that portion of the property shall be subject to taxation pursuant to this division.

(2) If the use of property which has qualified for the welfare exemption under Section 214 involves activities of the organization, some of which are exempt for property tax purposes and produce no income and some of which produce income that is taxable as unrelated business taxable income, or produce both income that is taxable as unrelated business taxable income and income that is exempt from income or franchise taxation and those activities are attributable to a reasonably ascertainable portion of the entire property, that portion of the property shall be entitled only to a partial exemption equal to that proportion of the total value of the portion of the property which the amount of time actually devoted to those exempt nonincome-producing activities of the organization attributable to that portion bears to the total amount of time actually devoted to all of the activities of the organization attributable to that portion. The remaining proportion of the total value of that portion of the property shall be subject to taxation pursuant to this division.

(3) If the activities described in paragraphs (1) and (2) cannot be attributed to a reasonably ascertainable portion of the entire property, the entire property shall be entitled only to a partial exemption. In the case of activities of the organization described in paragraph (1), the partial exemption shall be equal to that proportion of the value of the entire property which the amount of income of the organization that is exempt from income or franchise taxation and that is attributable to the entire property bears to the total amount of income of the organization that is attributable to the entire property. In the case of activities of the organization described in paragraph (2), the partial exemption shall be equal to that proportion of the value of the entire property which the amount of time actually devoted to exempt nonincome-producing activities of the organization attributable to the entire property bears to the total amount of time actually devoted to all of the activities of the

organization attributable to the entire property. In either case, the remaining proportion of the total value of the entire property shall be subject to taxation pursuant to this division.

(c) Notwithstanding subdivision (b), if more than 75 percent of the income of an organization is attributable to property which has qualified for the welfare exemption under Section 214, but is not specifically related to the organization's use of particular property, the property shall be entitled only to a partial exemption equal to that proportion of the total value of the property which the amount of the income of the organization attributable to activities in this state and exempt from income or franchise taxation bears to the amount of total income of the organization that is attributable to activities in this state.

(d) Whenever property is claimed exempt under Section 214 and activities of the organization on the property produce unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, the organization, as a part of its claim for exemption, shall file with the assessor each of the following:

(1) The organization's information and tax returns filed with the Internal Revenue Service for its immediately preceding fiscal year.

(2) Information indicating the amount of time devoted to its income-producing and its nonincome-producing activities and, where applicable, a description of that portion of the property in which those activities are conducted.

(3) A statement listing the specific activities which produce the unrelated business taxable income.

(4) Whenever subdivision (c) is applicable, the amount of income of the organization that is attributable to activities in this state and is exempt from income or franchise taxation and the amount of total income of the organization that is attributable to activities in this state.

(5) Any other information as prescribed by the board.

(e) Nothing in this section shall be construed to enlarge the welfare exemption provided in Section 214.

History.—Added by Stats. 1988, Ch. 1606, in effect January 1, 1989.

Note.—Section 4 of Stats. 1988, Ch. 1606, provided that if any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. Sec. 5 thereof provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs. Sec. 6 thereof provided that notwithstanding Section 2229, the requirements of that section shall not apply to the exemption of property for purposes of ad valorem property taxation made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 7 thereof provided that this act shall apply to property taxes levied for the 1989–90 fiscal year and fiscal years thereafter.

214.1. **Welfare exemption: Facilities under construction.** As used in Section 214, ''property used exclusively for religious, hospital or charitable purposes'' shall include facilities in the course of construction on or after the

first Monday of March, 1954, together with the land on which the facilities are located as may be required for their convenient use and occupation, to be used exclusively for religious, hospital or charitable purposes.

History.—Added by Stats. 1953, p. 2325, in effect November 4, 1954, upon adoption of an amendment of Article XIII, Sec. 1c, of the Constitution.

214.2. **Welfare exemption: Construction includes demolition.** (a) As used in Section 214.1, ''facilities in the course of construction'' shall include the demolition or razing of a building with the intent to replace it with facilities to be used exclusively for religious, hospital or charitable purposes.

(b) As used in Section 214.1, ''facilities in the course of construction'' shall include definite onsite physical activity connected with construction or rehabilitation of a new or existing building or improvement, that results in changes visible to any person inspecting the site, where the building or improvement is to be used exclusively for religious, hospital, or charitable purposes. Activity as described in the preceding sentence having been commenced and not yet finished, unless abandoned, shall establish that a building or improvement is ''under construction'' for the purposes of Section 5 of Article XIII of the California Constitution. Construction shall not be considered ''abandoned'' if delayed due to reasonable causes and circumstances beyond the assessee's control, that occur notwithstanding the exercise of ordinary care and the absence of willful neglect.

History.—Added by Stats. 1959, p. 4652, in effect September 18, 1959. Stats. 1991, Ch. 897, in effect January 1, 1992, added subdivision letter (a) before "As used" and added subdivision (b). Stats. 1992, Ch. 1180, in effect January 1, 1993, added "or improvement, . . . or improvement is" after "building" in the first sentence of subdivision (b); and added "or improvement" after "building" and added "if delayed" after "abandoned" in the second sentence of subdivision (b).

Note.—Section 3 of Stats. 1991, Ch. 897, provided that the Legislature finds and declares that the amendments to this section made by this act do not constitute a change in, but are declaratory of existing law. Section 4 thereof provided that notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section relating to any exemption of property for more than five years or for more than 75 percent of the value thereof, shall not apply to any exemption made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

214.3. **Welfare exemption: 30 years' use.** In the event that any property described in paragraph (6) of subdivision (a) of Section 214 shall have been used solely for charitable or hospital purposes for a minimum period of 30 years, the ''welfare exemption'' granted by Section 214 shall extend to such property irrespective of any reversionary provisions in the title of the property respecting liquidation, dissolution or abandonment, if the ownership, operation, use and dedication of the property are otherwise within the purview of Section 214.

History.—Added by Stats. 1953, p. 2276, in effect September 9, 1953. Stats. 1966, p. 656 (First Extra Session), in effect October 6, 1966, first operative for the 1967–68 assessment year, substituted "30 years" for "20 years." Stats. 1987, Ch. 498, in effect January 1, 1988, substituted "paragraph (6) of subdivision (a)" for "subdivision (6)" after "described in " in the first sentence.

214.4. **Definition: School of less than collegiate grade.** For the purposes of Sections 207 and 214 a school of ''less than collegiate grade'' is (a) any institution of learning attendance at which exempts a student from attendance at a public full-time elementary or secondary day school under Section 48222 of the Education Code or (b) any institution of learning a

majority of whose students are persons that have been excused from attendance at a full-time elementary or secondary day school under Section 48221 or 48226 of the Education Code.

History.—Added by Stats. 1963, p. 3991, in effect September 20, 1963. Stats. 1981, Ch. 542, in effect January 1, 1982, added "207 and" before "214", substituted "48222" for "12154", and substituted "48221 or 48226" for "12152 or 12156".

214.5. **Welfare exemption: Schools of less than collegiate grade.** Property used exclusively for school purposes of less than collegiate grade, or exclusively for purposes of both schools of and less than collegiate grade, and owned and operated by religious, hospital or charitable funds, foundations or corporations, which property and funds, foundations or corporations meet all of the requirements of Section 214, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and Section 214. This section shall not be construed to enlarge the college exemption.

History.—Added by Stats. 1953, p. 1910, in effect September 9, 1953. Stats. 1974, Ch. 311, p. 596, in effect January 1, 1975, substituted "subdivision (b) of Section 4 and Section 5" for "Section 1c" in the first sentence.

214.6. **Welfare exemption: Property leased to governmental entity.** (a) Property which is owned by an organization meeting the requirements of subdivision (b) of Section 4 of Article XIII of the California Constitution and complying with the requirements of paragraphs (1) to (7), inclusive, of Subdivision (a) of Section 214 and which is leased to an exempt governmental entity for the purpose of conducting an activity which if conducted by the owner would qualify the property for an exemption, or leased to a community college, state college, or state university for educational purposes, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 of Article XIII of the California Constitution if:

(1) The total income received by the organization in the form of rents, fees or charges from such lease does not exceed the ordinary and usual expenses in maintaining and operating the leased property; and

(2) With respect to entities which are political subdivisions of the state, the property is located within the boundaries of the exempt governmental entity leasing the same.

(b) To claim the exemption provided by this section for property leased by a church to a school district, the church need only file a lessor's exemption claim and affirm each of the following:

(1) The total income received by the organization in the form of rents, fees or charges from the lease does not exceed the ordinary and usual expenses in maintaining and operating the leased property.

(2) With respect to entities which are political subdivisions of the state, the property is located within the boundaries of the exempt governmental entity leasing the same.

History.—Added by Stats. 1977, Ch. 414, in effect January 1, 1978. Stats. 1979, Ch. 393, in effect July 27,1979, added ", or leased to a community college, state college, or state university for educational purposes," after "exemption", and added "with respect to entities which are political subdivisions of the state," before "the" in subsection (2). Stats. 1982, Ch. 558, in effect January 1, 1983, added "(a)" before "Property" at the beginning of the first sentence and added

subdivision (b). Stats. 1987, Ch. 498, in effect January 1, 1988, substituted "California" for "State" before "Constitution", substituted "paragraphs" for "subdivisions" after "requirements of", and added "of subdivision (a)" after "inclusive," in the first sentence of subdivision (a).

Note.—Section 2 of Stats. 1979, Ch. 393, provided that no appropriation is made by this act because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code. Section 3 thereof provided that the act shall be operative for the 1979–80 assessment year.

214.7. **Welfare exemption: Use of hospitals.** In the case of a hospital, neither the use of hospital property nor the receipt of fees or other lawful compensation by a licensed physician for the practice of his profession therein, shall be grounds for denial of the exemption provided by Sections 214 and 254.5. This section does not apply to such portions of a hospital as may be leased or rented to a physician for his office for the general practice of medicine.

History.—Added by Stats. 1955, p. 1003, in effect September 7, 1955.

Note.—Stats. 1955, p. 1003, adding Section 214.7, provides that the act shall be operative as of January 1, 1955; and that if any part is unconstitutional, it shall not affect the remainder.

214.8. **Welfare exemption: Limitation.** (a) Except as provided in Sections 213.7 and 231, and as provided in subdivision (g) of Section 214 with respect to veterans' organizations, the ''welfare exemption'' shall not be granted to any organization unless it is qualified as an exempt organization under either Section 23701d of this code or Section 501(c)(3) of the Internal Revenue Code. This section shall not be construed to enlarge the ''welfare exemption'' to apply to organizations qualified under Section 501(c)(3) of the Internal Revenue Code of 1954 but not otherwise qualified for the ''welfare exemption'' under other provisions of this code.

The exemption for veterans' organizations shall not be granted to any organization unless it is qualified as an exempt organization under either Section 23701f or 23701w of this code or under Section 501(c)(4) or 501(c)(19) of the Internal Revenue Code. This section shall not be construed to enlarge the ''veterans' organization exemption'' to apply to organizations qualified under Section 501(c)(4) or 501(c)(19) but not otherwise qualified for the ''veterans' organization exemption'' under other provisions of this code.

(b) For purposes of subdivision (a), an organization shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor duplicate copies of a valid, unrevoked letter or ruling from either the Franchise Tax Board or, in the alternative, the Internal Revenue Service, which states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code.

History.—Added by Stats. 1973, Ch. 5, p. 5, in effect February 28, 1973, operative March 1, 1973. Sec. 5 thereof provided no payment by state to local governments because of this act. Stats. 1977, Ch. 246, in effect January 1, 1978, substituted "Sections" for "Section" in the first paragraph and added "or 501(c)(19)" in the second paragraph. Stats. 1986, Ch. 1457, effective January 1, 1987, added the subdivision letters; substituted "unless it is" for "which is not" after "organization" and added "either" after "under" in the first sentence of the first paragraph and in the first sentence of the second paragraph of subdivision (a); and added subdivision (b). Stats. 1990, Ch. 126, in effect June 11, 1990, deleted "of 1954" after "Internal Revenue Code" in the first sentence of the first paragraph and in the first sentence of the second paragraph of subdivision (a). Stats. 1992, Ch. 807, in effect January 1, 1993, added "as provided in . . . veterans' organizations," after "and 231" in the first sentence of subdivision (a). Stats. 1995, Ch. 497, in effect January 1, 1996, added "or 23701w" after "Section 23701f" in the first sentence of the second paragraph of subdivision (a).

Construction.—An organization which is unable to satisfy the "exclusively charitable" requirements of both section 23701(d) of the Revenue and Taxation Code and section 501(c)(3) of the Internal Revenue Code is barred from the benefits of the welfare exemption by the express terms of this section *City of Los Angeles* v. *Los Angeles County,* 19 Cal.App.3d 968.

214.9. **Welfare exemption: Hospital includes outpatient clinic.** For the purposes of Section 214, a "hospital" includes an outpatient clinic, whether or not patients are admitted for overnight stay or longer, where the clinic furnishes or provides psychiatric services for emotionally disturbed children, or where the clinic is a nonprofit multispecialty clinic of the type described in subdivision (*l*) of Section 1206 of the Health and Safety Code, so long as the multispecialty clinic does not reduce the level of charitable or subsidized activities it provides as a proportion of its total activities.

For purposes of this section, a "hospital" does not include those portions of an outpatient clinic which may be leased or rented to a physician for an office for the general practice of medicine.

History.—Added by Stats. 1961, p. 4589, in effect September 15, 1961. Stats. 1987, Ch. 1228, in effect January 1, 1988, added ", or where the clinic . . . proportion of its total activities" after "children" in the first sentence of the first paragraph, and added the second paragraph.

Note.—Section 3 of Stats. 1987, Ch. 1228, provided that this act makes a classification or exemption of property for purposes of ad valorem taxation within the meaning of Section 2229 of the Revenue and Taxation Code. Sec. 4 thereof provided that the amendment made by this act shall be operative for the 1988–89 fiscal year and fiscal years thereafter.

214.10. **Welfare exemption: Government funding.** For purposes of Section 214, any nonprofit corporation organized and operated for the advancement of education, improvement of social conditions, and improvement of the job opportunities of low-income, unemployed and underemployed citizens of the communities in which they operate, and otherwise meeting all the requirements of Section 214, shall not be disqualified from receiving the welfare exemption solely because such organization receives all its funds from governmental agencies.

History.—Added by Stats. 1979, Ch. 1161, in effect September 29, 1979.

Note.—Section 22 of Stats. 1979, Ch. 1161, provided no payment by state to local governments because of this act.

214.11. **Welfare exemption: Needs of hospitals.** For purposes of Section 214, property owned and operated by a nonprofit organization, otherwise qualifying for exemption under Section 214, shall be deemed to be exclusively used for hospital purposes so long as the property is exclusively used to meet the needs of hospitals which qualify for exemption from property taxation under Section 214 or any other law of the United States or this state. As used in this section, "needs of hospitals" includes any use incidental to, and reasonably necessary for, the functioning of a full hospital operation.

History.—Added by Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982. Stats. 1983, Ch. 960, in effect January 1, 1984, substituted "qualify . . . state" for "themselves qualify under Section 214" after "which" in the first sentence.

Note.—Section 16 of Stats. 1981, Ch. 1141, provided the Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the classification or exemption of property by this act.

Note.—Section 2 of Stats. 1983, Ch. 960, provided the Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the classification or exemption of property by this act. The report shall be made in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code. Sec. 8 thereof provided that no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections.

214.12. **Welfare exemption: Possessory interest or improvements.** [Repealed by Stats. 1991, Ch. 646, in effect January 1, 1992.]

214.13. **Welfare exemption: Redevelopment plans.** Where property under development pursuant to the Community Redevelopment Law (Pt. 1 (commencing with Sec. 33000), Div. 24, H.&S.C.) is dedicated to religious, charitable, scientific, or hospital purposes in the redevelopment plan and is required by the plan to be conveyed to the state, a county, a city, or a nonprofit entity entitled to a welfare exemption, that property shall be deemed to be within the exemption provided for in Section 5 of Article XIII of the Constitution of the State of California and this section, and shall be exempt from property tax during construction, provided the title to the property is to be conveyed to the state, a county, a city, or nonprofit agency within three years of the completion of the construction. If that title is not passed to the state, a county, a city, or nonprofit organization entitled to a welfare exemption within three years of the completion of construction, the owner of the property shall be liable for the taxes that would have been imposed, plus a penalty of 25 percent of the amount due.

History.—Added by Stats. 1984, Ch. 1261, in effect January 1, 1985.

Note.—Section 3 of Stats. 1984, Ch. 1261, provided no payment by state to local governments because of this act.

214.14. **Welfare exemption: museums.** Property used exclusively for the charitable purposes of museums and owned and operated by a religious, hospital, scientific, or charitable fund, foundation, or corporation which meets all the requirements of subdivision (a) of Section 214 shall be deemed to be within the exemption provided by Sections 4 and 5 of Article XIII of the California Constitution and Section 214. For purposes of this section:

(a) Property used exclusively for the charitable purposes of museums shall include property used for activities and facilities related to the primary charitable purposes of museums and reasonably necessary and incidental to those purposes.

(b) Property used exclusively for charitable purposes of museums shall not be required to be indispensable to the primary charitable purposes of museums.

(c) Property used exclusively for charitable purposes of museums shall not include property used for activities and facilities not related to the primary charitable purposes of museums and not reasonably necessary or incidental to those purposes.

(d) Property used exclusively for the charitable purposes of museums shall include property owned by a nonprofit association or organization performing auxiliary services to any city or county museum in the state and used for the storage of items donated for an annual rummage sale, the proceeds of which, after taking into account the expenses of the nonprofit association or organization, are used to provide support to those museums. For purposes of this subdivision, ‘‘storage of items donated for an annual rummage sale’’ shall not be considered a ‘‘fundraising activity,’’ as that term is used in paragraph (3) of subdivision (a) of Section 214.

History.—Added by Stats. 1989, Ch. 912, in effect January 1, 1990. Stats. 1996, Ch. 897, in effect September 25, 1996, added "the" before "charitable" in the first sentence of the first paragraph, and in subdivisions (b) and (c); substituted "reasonably" for "reasonable" after "not" in subdivision (c);and added subdivision (d).

Note.—Section 1 of Stats. 1989, Ch. 912 provided that the Legislature finds and declares:

(a) It is the public policy of this state to encourage the operation of museums for public and charitable purposes, and for the cultural and educational benefits museums provide.

(b) It has consistently been the intent of the Legislature, and so interpreted by the courts, that property owned and operated for charitable purposes of a museum by a tax exempt organization qualifies for the welfare exemption under Section 214 of the Revenue and Taxation Code.

(c) It has never been the intent of the Legislature to disqualify from the welfare exemption those properties used for activities or facilities reasonably necessary and incidental to the charitable purposes of museums, including restaurants, cafes, bars, or other food service facilities, and bookstore/giftshops selling primarily educational materials, for the convenience of museum visitors and staff.

(d) Rising costs of administration and operation, dwindling federal and state funding, and declining tax incentives for private donations have made it extremely difficult for museums to secure adequate funding.

(e) It is essential to maintain and enhance the three main funding avenues currently available to museums: tax exemptions, private contributions, and earned income.

(f) To require museums to pay property taxes, in whole or in part, on the basis of traditional activities incidental to or reasonably necessary for the advancement of museum purposes, would seriously hamper the ability of museums to function effectively and would cause them to divert funds that otherwise would be available to provide greater cultural, historical, and educational benefits to the entire state.

(g) The provisions of this act serve the public purpose of encouraging museum operations and thereby advance cultural and educational progress in furtherance of declared state policy.

Sec. 3 thereof stated that the addition of this section made at the 1989–90 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law. Sec. 4 thereof provided that nothing in this act shall be construed as an admission on the part of the State Board of Equalization or an expression of opinion by the Legislature that the interpretations or applications of the welfare exemption by the board for prior years were in any way incorrect or invalid.

214.15. **Welfare exemption: Vacant land owned by low-income housing builders.** (a) Property is within the exemption provided by Sections 4 and 5 of Article XIII of the California Constitution if that property is owned and operated by a nonprofit corporation, otherwise qualifying for exemption under Section 214, that is organized and operated for the specific and primary purpose of building and rehabilitating single or multifamily residences for sale at cost to low-income families, with financing in the form of a zero interest rate loan and without regard to religion, race, national origin, or the sex of the head of household.

(b) (1) In the case of property not previously designated as open space, the exemption specified by subdivision (a) may not be denied to a property on the basis that the property does not currently include a single or multifamily residence as described in that subdivision, or a single or multifamily residence as so described that is in the course of construction.

(2) With regard to paragraph (1), the Legislature finds and declares all of the following:

(A) The exempt activities of a nonprofit corporation as described in subdivision (a) qualitatively differ from the exempt activities of other nonprofit entities that provide housing in that the exempt purpose of a nonprofit corporation as described in subdivision (a) is not to own and operate a housing project on an ongoing basis, but is instead to make housing, and the land reasonably necessary for the use of that housing, available for prompt sale to low-income residents.

(B) In light of this distinction, the holding of real property by a nonprofit corporation as described in subdivision (a), for the future construction on that property of a single or multifamily residence as described in that same subdivision, is central to that corporation's exempt purposes and activities.

(C) In light of the factors set forth in subparagraphs (A) and (B), the holding of real property by a nonprofit corporation described in subdivision (a), for the future construction on that property of a single or multifamily residence as described in that same subdivision, constitutes the exclusive use of that property for a charitable purpose within the meaning of subdivision (b) of Section 4 of Article XIII of the California Constitution.

History.—Added by Stats. 1999, Ch. 927 (AB 1559), in effect October 10, 1999, operative January 1, 2000.

Note.—Section 4 of Stats. 1999, Ch. 927 (AB 1559) provided that the addition of subdivision (a) of Section 214.15 of the Revenue and Taxation Code by this act does not constitute a change in, but is declaratory of, existing law. Sec. 5 thereof provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 6 thereof provided that the provisions of this act shall apply on and after the January 1, 2000, lien date.

215. **Veteran organizations.** All personal property owned by a veteran organization which has been chartered by the Congress of the United States, when the same are used solely and exclusively for the purposes of such organization, if not conducted for profit and no part of the net earnings of which inures to the benefit of any private individual or member thereof, shall be exempt from taxation.

History.—Added by Stats. 1945, p. 706, in effect September 15, 1945. Stats. 1970, p. 1072, in effect November 23, 1970, deleted "and all buildings, and so much of the real property on which the buildings are situated as may be required for the convenient use and occupation of said buildings," after "all personal property" in the first sentence, and deleted the second paragraph.

215.1. **Veterans' organization exemption.** All buildings, and so much of the real property on which the buildings are situated as may be required for the convenient use and occupation of said buildings, used exclusively for charitable purposes, owned by a veterans' organization which has been chartered by the Congress of the United States, organized and operated for charitable purposes, when the same are used solely and exclusively for the purpose of such organization, if not conducted for profit and no part of the net earnings of which inures to the benefit of any private individual or member thereof, shall be exempt from taxation.

The exemption provided for in this section shall apply to the property of all organizations meeting the requirements of this section and subdivision (b) of Section 4 of Article XIII of the California Constitution and paragraphs (1) to (7), inclusive, of subdivision (a) of Section 214.

This exemption shall be known as the ''veterans' organization exemption.''

History.—Added by Stats. 1973, Ch. 5, p. 5, in effect February 28, 1973, operative March 1, 1973. Stats. 1975, Ch. 224, p. 602, in effect January 1, 1976, substituted "subdivision (b) of Section 4" for "Section 1c" in the first sentence of the second paragraph. Stats. 1987, Ch. 498, effective January 1, 1988, added "California" and deleted "of the State of California" before "Constitution", deleted "of the State of California" after "Constitution", substituted "paragraphs" for "subdivisions" after "and", added "of subdivision (a)" after "inclusive," and deleted "of this code" after "Section 214" in the first sentence of the second paragraph.

Note.—Section 5 of Stats. 1973, Ch. 5, provided no payment by state to local governments because of this act.

Note.—Stats. 1972, p. 197, by which this section was first enacted, also provided: It has been stated that former Section 1c of Article XIII of the Constitution is not broad enough to serve to exempt buildings used for meetings and social gatherings of veterans' organizations. However, the Legislature finds that some of these organizations, such as the American Legion, are incorporated for purposes such as the following:

''. . . To uphold and defend the Constitution of the United States of America; to promote peace and good will among the peoples of the United States and all the nations of the earth; to preserve the memories and incidents of the two world wars and the other great hostilities fought to uphold democracy; to cement the ties and comradeship born of service; and to consecrate the efforts of its members to mutual helpfulness and serve to their country.''

It is established that "charity," as used in Section 1c of Article XIII is not limited to the giving of alms to the poor. It has been defined in a number of cases as a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons—either by bringing their hearts under the influence of education or religion, by relieving their bodies from disease, suffering, or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works, or otherwise lessening the burdens of government.

Moreover, it is recognized that a charitable exemption may be granted to property of organizations providing such diverse services as civic theater performances and recreational opportunities for members of a boys' club for 10 weeks each year.

In acting under Section 1c of Article XIII, the Legislature must necessarily construe the terms of the provision in order to determine the extent of its authority to act thereunder, and the Legislature finds it reasonable to exempt the property of organizations devoted to spreading patriotism and unity and to promoting respect for those who serve their country in the armed services in times of peril, and which bring the hearts of the youth of this state under the influence of education through their various programs (such as Boys State, Boy Scout sponsorship and oratorical contests dealing with the Constitution of the United States), and which lessen the burdens of government through their additional programs (such as veterans employment, Veterans Administration volunteer services in hospitals, and junior baseball).

The members of such an organization must necessarily have some accommodations in which to meet and correlate their activities, and the Legislature finds that such activities are incidental to, and reasonably necessary for, the accomplishment of the exempt activities of such organizations.

215.2. **Bingo.** Property owned by an organization that satisfies the requirements of Section 214, 215, or 215.1 and which is used primarily for exempt purposes shall not be denied the welfare or veterans organization exemption because such property is also used for conducting bingo games pursuant to Section 326.5 of the Penal Code, provided that the proceeds from such games are used exclusively for the charitable purposes of such organization.

History.—Added by Stats. 1977, Ch. 271, in effect July 8, 1977.

215.5. **Educational TV and FM stations.** All personal property owned or leased by a nonprofit corporation, which does not accept advertising for a consideration and is engaged exclusively in the production of programs for educational television, and all personal property owned or leased by a nonprofit educational organization, which is engaged exclusively in the production of programs as a noncommercial educational FM or AM broadcast station, shall be exempt from taxation, if such personal property is used solely and exclusively for the purposes of such organization or corporation and no part of the corporation's or organization's net earnings inure to the benefit of any private shareholder or individual.

History.—Added by Stats. 1966, p. 607 (First Extra Session), in effect October 6, 1966. Stats. 1978, Ch. 1394, in effect January 1, 1979, added "or AM" after "FM". Sec. 3 thereof provided no payment by state to local governments because of this act.

216. **Blind vending stand operators.** The stock in trade up to one thousand five hundred dollars ($1,500) of a vending stand operated by a blind person licensed by the Bureau of Vocational Rehabilitation pursuant to federal or state law is exempt from taxation.

History.—Added by Stats. 1955, p. 2831, in effect September 7, 1955. Stats. 1963, p. 3227, in effect September 20, 1963, substituted "the Bureau of Vocational Rehabilitation pursuant to federal or state law" for "Chapter 11, Division 7 of Title 1 of the Government Code."

217. **Works of art.** (a) Except as provided in subdivision (d), the following articles of personal property which have been made available for display in a publicly owned art gallery or museum, or a museum which is regularly open to the public and which is operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, shall be exempt from taxation:

(1) Original paintings in oil, mineral, water, vitreous enamel, or other colors, pastels, original mosaics, original drawings and sketches in pen, ink, pencil, or watercolors, or works of the free fine arts in any other media including applied paper and other materials, manufactured or otherwise, such as are used on collages, artists' proof etchings unbound, and engravings and woodcuts unbound, lithographs, or prints made by other hand transfer processes unbound, original sculptures or statuary. As used in this subdivision:

(A) ''Sculpture'' and ''statuary'' shall be understood to include professional productions of sculptors only whether in round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, metal, or other materials, or whether cut, carved, or otherwise wrought by hand from the solid block or mass of marble, stone, alabaster, or from metal, or other materials, or cast in bronze or other metal or substance, or from wax or plaster, or constructed from any material or made in any form as the professional productions of sculptors, only.

(B) ''Original'' when used to modify the words ''sculptures'' and ''statuary'' shall be understood to include the original work or model and the first 10 castings, replicas, or reproductions made from the sculptor's original work or model with or without a change in scale and regardless of whether or not the sculptor is alive at the time the castings, replicas, or reproductions are completed.

(C) ''Painting,'' ''mosaic,'' ''drawing,'' ''work of the free fine arts,'' ''sketch,'' ''sculpture,'' and ''statuary'' shall not be understood to include any articles of utility or for industrial use, nor such as are made wholly or in part by stenciling or any other mechanical process.

(D) ''Etchings,'' ''engravings,'' and ''woodcuts,'' ''lithographs,'' or ''prints made by other hand transfer processes,'' shall be understood to include only such as are printed by hand from plates, stones or blocks etched, drawn, or engraved with handtools and not such as are printed from plates, stones or blocks etched, drawn or engraved by photochemical or other mechanical processes.

(2) Original works of the free fine arts, not provided for in paragraph (1) of this subdivision, subject to such regulations as the board may prescribe as to proof that the article represents some school, kind or medium of the free fine arts. As used in this paragraph ''original works of the free fine arts'' shall not be understood to include any article of utility or for industrial use.

(b) When making a claim for an exemption pursuant to this section, a person claiming the exemption shall appear before the assessor, shall give all information required and answer all questions in an affidavit, and shall subscribe and swear to the affidavit before the assessor. The assessor may require other proof of the facts stated before allowing the exemption. The affidavit shall be accompanied by a certificate of the director or other officer of the art gallery or museum in which the property for which an exemption

is claimed under this section was made available for display that the property was available for public display in the art gallery or museum for the period specified in subdivision (e).

(c) The provisions of Sections 255 and 260 shall be applicable to the exemption provided by this section.

(d) The exemption provided by subdivision (a) shall not apply to any work of art loaned by any person who holds works of art primarily for purposes of sale.

(e) The exemption provided by this section shall not apply unless the property was made available for public display in the art gallery or museum for a period of 90 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the property was first made available for public display less than 90 days prior to the lien date, the exemption may be granted if the person claiming the exemption certifies in writing that the property will be made available for public display for at least 90 days during the 12-month period commencing with the first day the property was made available for public display.

(f) For purposes of this section ''regularly open to the public'' means that the gallery or museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the gallery or museum has been open for less than 35 weeks during the 12-month period immediately preceding the lien date or for less than 20 hours per week during such period, the exemption may be granted if the director or other officer of the gallery or museum certifies in writing that the gallery or museum will be open for not less than 20 hours per week for not less than 35 weeks during the 12-month period beginning with the day the gallery or museum was first opened.

(g) If a person certifies in writing that the property will be made available and the gallery or museum open for the periods specified in subdivisions (e) and (f), and the property is not so made available or the gallery or museum is not so opened, the exemption shall be canceled, and an escape assessment may be made as provided in Section 531.1.

History.—Added by Stats. 1965, p. 3372, in effect September 17, 1965. Stats. 1979, Ch. 1188, in effect September 30, 1979, substituted "or a museum which is regularly open to the public and which is operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d," for "for a minimum period of 90 days during the preceding year" in the first sentence of subdivision (a); added "or other officer" after "director", and substituted "the period specified in subdivision (e)" for "a period of 90 days or more during the preceding calendar year" in the third sentence of subdivision (b); and added subdivisions (e), (f), and (g).

Note.—Section 10 of Stats. 1979, Ch. 1188, provided that questions have arisen in several counties concerning the application of the property tax exemption provided in Section 217 of the Revenue and Taxation Code for works of art exhibited in museums owned and operated for public and charitable purposes by tax exempt organizations which are open to the public. Several county assessors have questioned whether such museums are ''publicly owned'' within the meaning of Section 217 of the Revenue and Taxation Code and thus whether the museums are qualifying museums for the display of art for purposes of the exemption provided in Section 217 of the Revenue and Taxation Code. This applies to art works owned by the museum as well as to works of art loaned to such museums for display. A construction of Section 217 of the Revenue and Taxation Code which excludes museums owned and operated for public and charitable purposes by tax-exempt organizations from the definition of a ''publicly owned art gallery or museum'' would be inconsistent with long-standing administrative interpretations which have determined that such museums do qualify for the exemption provided in Section 217 of the Revenue and Taxation Code.

It is the public policy of this state to encourage the public display of art. Such policy shall be affirmed by a declaration of the existing law concerning the status of museums as provided in Section 1.7 of this act. It consistently has been the intent of the Legislature, and so interpreted administratively, that such museums be considered publicly owned within the meaning of Section 217 of the Revenue and Taxation Code so long as they are owned by a tax-exempt charitable organization and are open to the public.

The legislative policy has recently been expressed with the enactment of Section 6365 of the Revenue and Taxation Code relating to sales and use tax exemption on art purchases for museums. This declaration and amendments made to Section 217 of the Revenue and Taxation Code by Section 1.7 of this act would make such provisions consistent with the provisions in Section 6365 of the Revenue and Taxation Code. Sec. 11 thereof provided that changes made by Section 1.7 of this act are declarative of existing law, and that it is the intent of the Legislature that Section 1.7 be applied to determine the eligibility of exemptions under Section 217 of the Revenue and Taxation Code for any property otherwise taxable on March 1, 1979. Section 13 thereof provided no payment by state to local governments because of this act.

217.1. **Personalty available for display in Aerospace museum.** (a) Except as provided in subdivision (d), the following articles of personal property which have been made available for display in a publicly owned aerospace museum, or an aerospace museum which is regularly open to the public and which is operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, shall be exempt from taxation:

(1) Aircraft which have been restored or maintained, whether currently certified or not for flight purposes.

(2) Aircraft donated in perpetuity to the aerospace museum.

(b) When making a claim for an exemption pursuant to this section, a person claiming the exemption shall give all information required and answer all questions in an affidavit, and shall subscribe and swear to the affidavit before, at the election of the claimant, either the assessor or a notary public. The assessor may require other proof of the facts stated before allowing the exemption. The affidavit shall be accompanied by a certificate of the director or other officer of the aerospace museum in which the property for which an exemption is claimed under this section was made available for display that the property was available for public display in the aerospace museum for the period specified in subdivision (e).

(c) For the 1984–85 assessment year and each assessment year thereafter, the provisions of Sections 255 and 260 shall be applicable to the exemption provided by this section.

(d) The exemption provided by subdivision (a) shall not apply to any aircraft loaned by any person who holds aircraft primarily for purposes of sale.

(e) The exemption provided by this section shall not apply unless the property was made available for public display in the aerospace museum for a period of 90 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the property was first made available for public display less than 90 days prior to the lien date, the exemption may be granted if the person claiming the exemption certifies in writing that the property will be made available for public display for at least 90 days during the 12-month period commencing with the first day the property was made available for public display.

(f) For purposes of this section, ''regularly open to the public'' means that the aerospace museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the aerospace museum has been open for less than 35 weeks during the 12-month period immediately preceding the lien date or for less than 20 hours per week during that period, the exemption may be granted if the director or other officer of the aerospace museum certifies in writing that the aerospace museum will be open for not less than 20 hours per week for not less than 35 weeks during the 12-month period beginning with the date the aerospace museum was first opened.

(g) If a person certifies in writing that the property will be made available and the aerospace museum open for the periods specified in subdivisions (e) and (f), and the property is not so made available or the aerospace museum is not so opened, the exemption shall be canceled, and an escape assessment may be made as provided in Section 531.1.

(h) The exemption provided by this section shall be applicable for the 1979–80 fiscal year and each fiscal year thereafter.

History.—Added by Stats. 1983, Ch. 1102, in effect September 27, 1983. Stats. 1984, Ch. 946, in effect September 10, 1984, added "For the 1984–85 . . . thereafter," before "the" in subdivision (c); and added subdivision (h). Stats. 1991, Ch. 646, in effect January 1, 1992, deleted the second sentence of subdivision (h) which provided "With respect to property otherwise qualifying for the exemption provided by this section in the 1979–80 fiscal year to 1983–84 fiscal year, inclusive, any tax or penalty or interest thereon for those fiscal years shall be canceled if an appropriate claim for exemption has been filed on or before March 1, 1985.".

Note.—Section 38.5 of Stats. 1983, Ch. 1102, provided that notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section do not apply to the exemption of property for purposes of ad valorem property taxation provided by Section 217.1 of the Revenue and Taxation Code, as added by this act. No appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 40 thereof provided that the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

Note.—See note following Section 95.

218. **Homeowners' exemption.** The homeowners' property tax exemption is in the amount of the assessed value of the dwelling specified in this section, as authorized by subdivision (k) of Section 3 of Article XIII of the Constitution. That exemption shall be in the amount of seven thousand dollars ($7,000) of the full value of the dwelling.

The exemption does not extend to property which is rented, vacant, under construction on the lien date, or which is a vacation or secondary home of the owner or owners, nor does it apply to property on which an owner receives the veteran's exemption. ''Owner'' includes a person purchasing the dwelling under a contract of sale or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling. As used in this section, ''dwelling'' shall include:

(a) A single-family dwelling occupied by an owner thereof as his or her principal place of residence on the lien date.

(b) A multiple-dwelling unit occupied by an owner thereof on the lien date as his or her principal place of residence.

(c) A condominium occupied by an owner thereof as his or her principal place of residence on the lien date.

(d) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in subdivision (h) of Section 61, as his or her principal place of residence on the lien date. Each exemption allowed pursuant to this subdivision shall be deducted from the total assessed valuation of the cooperative housing corporation. The exemption shall be taken into account in apportioning property taxes among owners of share or membership interests in the cooperative housing corporations so as to benefit those owners who qualify for the exemption.

''Dwelling'' means a building, structure or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section a two-dwelling unit shall be considered as two separate single-family dwellings.

Any dwelling that qualified for an exemption under this section prior to October 20, 1991, that was damaged or destroyed by fire in a disaster, as declared by the Governor, occurring on or after October 20, 1991, and before November 1, 1991, and that has not changed ownership since October 20, 1991, shall not be disqualified as a ''dwelling'' or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

The exemption provided for in subdivision (k) of Section 3 of Article XIII of the Constitution shall first be applied to the building, structure or other shelter and the excess, if any, shall be applied to any land on which it may be located.

History.—Added by Stats. 1968, p. 8 (First Extra Session), in effect September 23, 1968, operative March 1, 1969. Stats. 1970, p. 1030, in effect November 23, 1970, added the second sentence to the second paragraph. Stats. 1971, p. 3781, in effect March 4, 1972, operative for property taxes for the 1972–73 fiscal year and fiscal years thereafter added "or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling" after "sale" in the third sentence of the first paragraph and added subsection (d). Stats. 1972, p. 1, in effect January 18, 1972, substituted "homeowners' " for "homeowner's" in the first sentence. Section 218 as amended by Stats. 1971, Ch. 1752, was repealed by Stats. 1972, p. 2958, in effect December 26, 1972, operative on the lien date in 1973. Section 218 was reenacted by the same Stats. 1972, p. 1958, with the same effective and operative dates which increased the amount of the exemption from $750 to $1,750 and made the exemption applicable to a multiple dwelling unit occupied by the owner of more than two units. Stats. 1973, Ch. 842, p. 1506, in effect January 1, 1974, inserted "paragraphs (1) and (2) of subdivision (a) of" before "section 17265" in subsection (d). Stats. 1974, Ch. 311, p. 597, in effect January 1, 1975, substituted "subdivision (k) of Section 3" for "Section 1d" in the first sentence of the first paragraph and in the first sentence of the sixth paragraph. Stats. 1976, Ch. 1060, p. 4691, in effect September 21, 1976, deleted "or to property for which an owner received an allowance for taxes, either in whole or in part, either directly or indirectly, for the property tax year from the state or any political subdivision thereof, except assistance received under Part 10.5 (commencing with Section 19501) of Division 2 of this code" after "veteran's exemption" in the first sentence of the fourth paragraph, and added the seventh paragraph. Stats. 1978, Ch. 1207, in effect January 1, 1979, operative January 1, 1981, added the second sentence to the first paragraph and deleted the second and third paragraphs. Stats. 1986, Ch. 608, effective date January 1, 1987, inserted "or her" after "his" in subsections (a) and (b), substituted "subdivision (h) of Section 61, as his or her" for "paragraphs (1) and (2) of subdivision (a) of Section 17265, as his" after "defined in" in the first sentence of subsection (d), and deleted the former fifth paragraph regarding pending litigation affecting this section. Stats. 1992, Ch. 1180, in effect January 1, 1993, substituted "that" for "such" before "exemption" in the second sentence of the first paragraph, added "or her" after "his" in subdivision (c); and added the fourth paragraph.

Construction.—Owners of leasehold condominiums are entitled to this exemption because the interests satisfied the statutory definitional requirements of a condominium, and since a condominium may be a leasehold or subleasehold in duration, each owner owned a condominium within the meaning of this section. In the context of assessments, the term ''owner'' is used for both fee and nonfee condominiums, and nonfee condominiums include leasehold and subleasehold condominiums. *Smith* v. *State Board of Equalization,* 53 Cal.App.4th 331.

218.1. **Homeowners' exemption; April and May 1992 civil disturbance.** For purposes of Section 218, any dwelling that qualified for an exemption under that section prior to the civil disturbance that occurred in California during April and May of 1992, that was damaged or destroyed by

fire in a disaster, as declared by the Governor, occurring during April and May of 1992, and that has not changed ownership since the commencement of that disaster, shall not be disqualified as a ''dwelling'' or denied an exemption under Section 218 solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

History.—Added by Stats. 1992, Ch. 17X, First Extraordinary Session, in effect September 21, 1992.

218.5. **Homeowners' exemption; assessors to supply board with information.** In order to assure the accuracy of the state's reimbursements for the homeowners' property tax exemption and to prevent duplications of the exemptions within the state and improper overlapping with other benefits provided by law, county assessors shall supply information from homeowners' property tax exemption claims and county records as is specified by written request of the board, and with the concurrence of the Controller, necessary to fully identify all homeowners' property tax exemption claims allowed by the assessors. The board may specify that the information include all or a part of the names and social security numbers of claimants and spouses and the identity and location of the dwelling to which the exemption applies. The information may be required in the form of data processing media or other media and in such format as is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

History.—Added by Stats. 1970, p. 542, in effect June 30, 1970. Stats. 1973, Ch. 208, p. 563, in effect July 11, 1973, eliminated subdivision letters former two paragraphs. In the remaining combined paragraph the objectives to be served by the assessors' sending information to the board were restated to be prevention of "duplications of the exemptions within the state and improper overlapping with other benefits provided by law" rather than prevention of duplication of exemptions "arising from the filing of claims in two or more counties by members of a single household", and added the sentence stating the kind of information the board may request.

219. **Business inventories and exemption.** [Repealed by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981.]

Construction.—The expanded exemption (Stats. 1974, Ch. 1441) applies only to business inventories escaping assessment in fiscal year 1975–76 and thereafter. Applying the expanded exemption to escaped assessments meeting the specified conditions which are entered on the 1975–76 tax roll and on tax rolls in ensuing years irrespective of the year of the escape would result in a gift of public funds in violation of Article XVI, Section 6 of the Constitution. *California Computer Products, Inc.* v. *Orange County,* 107 Cal.App.3d 731; *General Dynamics Corporation* v. *San Diego County,* 108 Cal.App.3d 132

219. **Business inventories and exemption.** For the 1980–81 fiscal year and fiscal years thereafter, business inventories are exempt from taxation and the assessor shall not assess business inventories.

History.—Added by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981.

Raw materials.—Cobalt 60 used by a taxpayer for the purpose of irradiating its customers' products did not come within the business inventory exemption. Although de minimis amounts of mass were lost and absorbed into the customers' products in the irradiating process, the cobalt 60 was not an item delivered as part of the provided service. *Sterigenics International* v. *Orange County,* 47 Cal.App.4th 1541.

220. **Aircraft being repaired.** Any aircraft which is in California on the lien date solely for the purpose of being repaired, overhauled, modified, or serviced is exempt from personal property taxation. This exemption does not apply to aircraft normally based in California, or operated intrastate or interstate in and into California.

History.—Added by Stats. 1955, p. 1082, in effect September 7, 1955, Stats. 1966, p. 656 (First Extra Session), in effect October 6, 1966, substituted "lien date" for "first Monday in March."

220.5. **Aircraft of historical significance.** (a) Aircraft of historical significance shall be exempt from taxation.

(b) The exemption provided in subdivision (a) shall only apply if all of the following conditions are satisfied:

(1) The assessee is an individual owner who does not hold the aircraft primarily for purposes of sale.

(2) The assessee does not use the aircraft for commercial purposes or general transportation.

(3) The aircraft is available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed. If the aircraft was first made available for public display less than 12 days prior to the lien date, the exemption may be granted if the claimant certifies in writing that the aircraft will be made available for public display at least 12 days during the 12-month period commencing with the first day the property was made available for public display.

(c) When claiming an exemption pursuant to this section, the claimant shall provide all information required and answer all questions contained in an affidavit furnished by the assessor. The claimant shall sign and swear to the accuracy of the contents of the affidavit before either a notary public or the assessor or his or her designee, at the claimant's option. The assessor may require additional proof of the information or answers provided in the affidavit before allowing the exemption.

(d) For purposes of this section, ''aircraft of historical significance'' means any aircraft which is an original, restored, or replica of a heavier than air powered aircraft which is 35 years or older or any aircraft of a type or model of which there are fewer than five in number known to exist worldwide.

(e) A fee of thirty-five dollars ($35) shall be charged and collected by the assessor upon the initial application for an exemption pursuant to this section.

History.—Added by Stats. 1987, Ch. 267, in effect January 1, 1988.

Note.—Section 2 of Stats. 1987, Ch. 267, provided that this act applies to the 1987–88 fiscal year and fiscal years thereafter. Sec. 3 thereof provided no payment by state to local agencies because of this act.

221. **Nursery school.** For the purposes of Section 214 a nursery school is any group facility for minors which has obtained a written license or permit to operate as such from the State Department of Social Services or from an inspection service approved or accredited by the State Department of Social Services, and which is owned and operated for one or more of the following purposes:

(a) The facility is owned and operated to provide day care for minors whose parent or parents are unable to supervise such minors due to the hours of employment of the parent or parents.

(b) The facility is owned and operated to provide training and education for minors of preschool age.

(c) The facility is owned and operated to provide instruction to parents on the subject of raising minors and to provide training and education for minors.

History.—Added by Stats. 1965, p. 2472, in effect September 17, 1965. Stats. 1978, Ch. 1112, in effect January 1, 1979, deleted the word "welfare" in the first paragraph and replaced it with the word "services".

222. **Zoological society property.** Personal property used exclusively in the operation of a zoo or for purposes of horticulture display on publicly owned land which is owned by a nonprofit zoological society meeting all the requirements of Section 214 shall be exempt from taxation.

History.—Added by Stats. 1973, Ch. 4, p. 4, in effect February 26, 1973, operative March 1, 1973. Sec. 3 thereof provided no payment by state to local government because of this act.

222.5. **Possessory interests of zoological society.** As used in Section 214, ''property used exclusively for religious, hospital, scientific or charitable purposes'' shall include possessory interests in publicly owned land, used exclusively for the operation of a zoo or for purposes of horticultural display by a zoological society meeting all the requirements of Section 214.

History.—Added by Stats. 1973, Ch. 72, p. 120, in effect May 31, 1973. Sec. 4 thereof provided no payment by state to local government because of this act.

223. **Fruit and nut trees and grapevines.** Fruit trees, nut trees, and grapevines of a grower, which are personal property, held on the lien date for subsequent planting in orchard or vineyard form and are planted during the assessment year by the grower shall be exempt from taxation. This section does not apply to plant nurseries.

History.—Added by Stats. 1967, p. 3106, in effect November 8, 1967. Stats. 1968, p. 548, in effect November 13, 1968, deleted "in storage" following "held" in the first sentence.

224. **Personal effects and household furnishings.** The personal effects, household furnishings, and pets of any person shall be exempt from taxation.

The phrase ''personal effects, household furnishings, and pets'' does not include boats, aircraft, vehicles, or personalty held or used in connection with a trade, profession or business or pets so held or used.

For purposes of this section, ''pets'' mean and include any animals held for noncommercial purposes and not as an investment.

History.—Added by Stats. 1968, p. 8 (First Extra Session), in effect September 23, 1968, operative March 1, 1969, Stats. 1969, p. 210, in effect May 20, 1969, revised the language of the first paragraph, substituting a reference to the amount of exemption allowed under the Constitution for a reference to $100 per householder, and deleted the former second paragraph. Stats. 1971, p. 2912, in effect March 4, 1972, operative for taxes for the 1972–73 fiscal year and thereafter, added the third paragraph concerning "pets". Stats. 1972, p. 4, in effect February 10, 1972, operative March 4, 1972, repealed Section 224 as amended by Stats. 1971, p. 2912. Stats. 1972, p. 4, in effect February 10, 1972, operative for taxes for the 1972–73 fiscal year and thereafter added Section 224, Stats. 1974. Ch. 311, p. 598, in effect January 1, 1975, deleted "in excess of the amount of any exemption allowed to the person on any property pursuant to Section 10½ of Article XIII of the State Constitution" after "any person" in the first sentence of the first paragraph.

Note.—Stats. 1971, p. 2912, provided that the act shall be operative for taxes for the 1972–73 fiscal year and thereafter and that the act shall not be construed to prohibit local governments from licensing pets.

Ownership.—The statutory language does not restrict this exemption to householders as owners. Personal property consisting of household furnishings that are used in a common-use clubhouse and owned by a community association qualifies. *Lake Forest Community Assn.* v. *Orange County,* 86 Cal.App.3d 394.

225. **Trailers and semitrailers.** (a) A trailer, semitrailer, logging dolly, pole or pipe dolly, or trailer bus, that has a valid identification plate

issued to it pursuant to Section 5014.1 of the Vehicle Code, or any auxiliary dolly or tow dolly is exempt from personal property taxation.

(b) The exemption provided for in subdivision (a) does not apply to a logging dolly that is used exclusively off-highway.

History.—Added by Stats. 2000, Ch. 861 (SB 2084), in effect September 29, 2000. Stats. 2001, Ch. 826 (AB 1472), in effect, January 1, 2002, designated the first sentence of the first paragraph as subdivision (a), and substituted "trailer, semitrailer, logging dolly, pole or pipe dolly, or trailer bus," for "trailer or semitrailer" after "A" and added ", or any auxiliary dolly or tow dolly" after "Code" therein; and added subdivision (b).

Note.—Section 1 of Stats. 2000, Ch. 861 (SB 2084) provided that:

(a) The Legislature finds and declares that it is necessary to convert California's system of commercial vehicle registration from an unladen weight system to a gross vehicle weight system and to initiate a permanent trailer identification program. Furthermore, it is the intent of the Legislature that this conversion be revenue neutral to all cities and counties and all unladen weight fee system recipients.

(b) For the purposes of this act, ''revenue neutrality'' requires that all recipients of the fees collected under the system in effect on December 31, 2000, shall receive the same level of funding, with the same degree of flexibility, after the conversion to the system created by this act.

(c) This act shall be known, and may be cited as, the Commercial Vehicle Registration Act of 2001.

Note.—Section 1 of Stats. 2001, Ch. 826 (AB 1472) provided that:

(a) The Legislature finds and declares that it is necessary to convert California's system of commercial vehicle registration from an unladen weight system to a gross vehicle weight system and to initiate a permanent trailer identification program. Furthermore, it is the intent of the Legislature that this conversion be revenue neutral to all cities and counties and all unladen weight fee system recipients.

(b) For the purposes of this act, ''revenue neutrality'' requires that all recipients of the fees collected under the system in effect on December 31, 2001, shall receive the same level of funding, with the same degree of flexibility, after the conversion to the system created by this act.

225. **Personalty in transit.** [Repealed by Stats. 1984, Ch. 678, in effect January 1, 1985.]

225.1. **Personalty in transit; claiming exemption.** [Repealed by Stats. 1977, Ch. 246, in effect January 1, 1978.]

225.2. **Personalty in transit; escape assessment procedures.** [Repealed by Stats. 1984, Ch. 678, in effect January 1, 1985.]

225.3. **Personalty in transit; escape assessment procedures; exception.** [Repealed by Stats. 1984, Ch. 678, in effect January 1, 1985.]

225.5. **Educational TV and FM stations, defined.** (a) For purposes of Section 214 an educational television station is any facility, which does not accept advertising for a consideration and which transmits television programs by wires, lines, radio waves, waveguides, coaxial cable, microwave transmitters or other electronic or mechanical means or any combination thereof, if the corporation, fund or foundation owning such station receives at least twenty-five (25) percent of its operating expenses by means of contributions from the general public or dues from members.

(b) For purposes of Section 214 a noncommercial educational FM broadcast station is any facility licensed and operating pursuant to subpart (C) (commencing with Section 73.501) of Part 73 of Title 47 of the Code of Federal Regulations.

History.—Added by Stats. 1966, p. 607 (First Extra Session), in effect October 6, 1966.

226. **Imported goods; validity of assessment.** [Repealed by Stats. 1984, Ch. 678, in effect January 1, 1985.]

226. **Supercomputer exemption.** (a) Personal property consisting of qualified computer equipment shall be exempt from taxation.

(b) For purposes of this section:

(1) ''Qualified computer equipment'' means all computer equipment of the San Diego Supercomputer Center located on the campus of the University of California, San Diego.

(2) ''Computer equipment'' includes, but is not limited to, any supercomputer and all peripheral computer and other equipment related to the system of which the supercomputer is the principal component and all other equipment that becomes a part of that supercomputer system.

History.—Added by Stats. 1988, Ch. 1559, in effect September 30, 1988.

Note.—Section 2 of Stats. 1988, Ch. 1559 provided that the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Sec. 3 thereof provided that this act would make a classification or exemption of property for purposes of ad valorem property taxation within the meaning of Section 2229. Sec. 4 thereof provided that this act shall be applicable to property taxes levied for the 1988–89 fiscal year and fiscal years thereafter.

227. **Documented vessel.** [Repealed by Stats. 1978, Ch. 232, in effect January 1, 1980.]

227. **Documented vessel.** A documented vessel, as defined in Section 130, shall be assessed at 4 percent of its full cash value only if the vessel is engaged or employed exclusively in any of the following:

(a) In the taking and possession of fish or other living resource of the sea for commercial purposes.

(b) In instruction or research studies as an oceanographic vessel.

(c) In carrying or transporting seven or more people for hire for commercial passenger fishing purposes and holds a current certificate of inspection issued by the United States Coast Guard. A vessel shall not be deemed to be engaged or employed in activities other than the carrying or transporting of seven or more persons for hire for commercial passenger fishing purposes by reason of that vessel being used occasionally for dive, tour, or whale watching purposes. For purposes of this subdivision, ''occasionally'' means 15 percent or less of the total operating time logged for the immediately preceding assessment year.

History.—Added by Stats. 1974, Ch. 1467, p. 3207, in effect January 1, 1975, operative March 3, 1979. Stats. 1978, Ch. 232, deleted "March 3, 1979" and added "January 2, 1980, unless a later enacted statute which is chaptered before January 1, 1980, deletes or extends such date." Stats. 1980, Ch. 18, in effect February 29, 1980, added subdivision (c) and substituted a new second paragraph to extend the effective date to January 1, 1983, Stats. 1980, Ch. 1208, in effect January 1, 1981, substituted "4 percent" for "1 percent" after "assessed" in the first sentence. Stats. 1981, Ch. 475, in effect September 14, 1981, deleted "or" after "purposes" in subdivision (a), added "or" after "vessel" in subdivision (b), added the balance of the sentence after "purposes" in subdivision (c), and substituted a new second paragraph. Stats. 1986, Ch. 608, effective January 1, 1987, added "in either of the following" after "exclusively" in the first paragraph; substituted "." for ";" at the end of subsections (a) and (b); and deleted "State" before "Controller" and deleted "pursuant to subdivision (a) of Section 16113 of the Government Code" after "reimbursement" in the second paragraph. Stats. 1994, Ch. 940, in effect January 1, 1995, substituted "any" for "either" in the first sentence; but operative July 1, 1995, added second sentence in subdivision (c) and substituted "comply with" for "are valid with respect to" after "claims" in the second paragraph of subdivision (c). Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, deleted the former second paragraph which provided that "The Controller shall audit all claims for reimbursement to determine whether those claims comply with the requirements of this section."

Note.—Section 7 of Stats. 1974, p. 3207, provided that the Legislative analyst is to report to the Legislature on or before November 15, 1978, on the effect of the section on the change in the number of vessels, the change in the size of vessels, changes in the port of documentation of vessels, and the identification of any other changes in the commercial fishing and sportfishing industries attributable to the changes made by the section.

Decisions Under Former Section 227, Documented Vessel.

Construction.—Vessels under construction on the lien date and not subject to documentation until completion are not eligible for preferential assessment notwithstanding their intended use. *Favalora* v. *Humboldt County,* 55 Cal.App.3d 969.

Requirement that port of documentation be in California held invalid.—Provision that only California documented vessels be taxed at the reduced rate violated the right of owners of vessels documented in other states to equal protection of the laws guaranteed under the Federal Constitution and is therefore invalid. The balance of the statute was upheld on the basis that to do so best served the legislative intent. *Haman et al.* v. *Humboldt County,* 8 Cal.3d 922.

228. **Vessels with market value of $400 or less.** (a) A vessel with a market value of four hundred dollars ($400) or less shall be free from taxation. This section shall only apply to vessels used or held for noncommercial purposes and shall not apply to lifeboats or other vessels used in conjunction with operations of vessels with a market value of more than four hundred dollars ($400). This section shall not apply to more than one vessel owned, claimed, possessed, or controlled by an assessee on the lien date.

(b) For purposes of this section, ''vessel'' includes every description of watercraft used or capable of being used as a means of transportation on water, except vessels described in paragraphs (1) and (2) of subdivision (c) of Section 651 of the Harbors and Navigation Code.

(c) For purposes of this section, ''vessel'' includes all equipment, including mode of power, and furnishings that are normally required aboard the vessel during the accomplishment of the functions for which the vessel is being utilized.

History.—Added by Stats. 1973, Ch. 3, p. 3, in effect February 26, 1973, operative March 1, 1973. Sec. 5 thereof provided no payment by state to local government because of this act. Stats. 1983, Ch. 1281, in effect September 30, 1983, deleted ''shall not apply to any vessel on which an exemption is claimed under Section 210 and'' after ''section'' in the third sentence of subdivision (a).

229. **Floating home.** (a) A floating home shall be assessed in the same manner as real property.

(b) For purposes of determining the valuation of floating homes pursuant to this section, the procedures set forth in Section 110.1 shall apply, except that:

(1) The 1979 lien date shall be substituted for the 1975 lien date.

(2) The 1979–80 assessment roll shall be substituted for the 1975–76 assessment roll.

(3) The date January 1, 1983, shall be substituted for the dates June 30, 1980, and June 30, 1981.

(c) ''Floating home'' means a floating structure which is all of the following:

(1) It is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling.

(2) It has no mode of power of its own.

(3) It is dependent for utilities upon a continuous utility linkage to a source originating on shore.

(4) It has a permanent continuous hookup to a shoreside sewage system.

''Floating home'' does not include a vessel. This section does not affect existing law regarding residential use of tide and submerged lands.

History.—Added by stats. 1982, Ch. 44, in effect February 17, 1982. Stats. 1985, Ch. 1467, effective October 2, 1985, restructured subdivision (c), substituted '' ''Floating home'' means'' for ''a floating home is defined as'', added ''is all of the following:'' after ''which,'' added ''(1) It'' before ''is designed,'' added '', or is modified to be used,'' after ''built to be used'', substituted a period for ''; which'' after ''dwelling'', added ''(2) It'' before ''has no mode'', substituted a period for ''and is designed not to have such mode of power; which'', added ''(3) It'' before ''is dependent'', substituted a period

for "; and which", added "(4) It" before "has a permanent", substituted " 'Floating home' " for "A floating home" in the former second sentence now the first sentence of the fourth paragraph; and added the second sentence of the fourth paragraph.

Note.—Section 2 of Stats. 1982, Ch. 44, provided that notwithstanding Section 2229, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it under this act. Sec. 3 thereof provided that the act shall be operative with respect to the 1982–83 fiscal year and fiscal years thereafter.

230. **Historical wooden vessels.** (a) With regard to taxes that attach as a lien on or after January 1, 2001, wooden vessels of historical significance, and all personal property thereon used in their operation, are exempt from taxation. This exemption applies if all of the following conditions are satisfied:

(1) The owner and operator is a nonprofit organization that has qualified for exemption under either Section 23701d of this code or under Section 501(c)(3) of the Internal Revenue Code.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The vessel is used primarily as, or as a part of, a maritime museum that is regularly open to the public.

(4) Income from fundraising use and use for charter activities does not exceed 40 percent of operating revenues of the vessel, and all net earnings are used to further the exempt activity of the museum.

(b) When claiming an exemption pursuant to this section, a claiming organization shall give all information required and answer all questions in an affidavit, to be furnished by the assessor, that is signed by the claimant under penalty of perjury. The assessor may require other proof of the facts stated in the affidavit before allowing the exemption. A claimant for an exemption pursuant to this section is subject to Sections 255 and 260.

(c) For purposes of this section, the following definitions apply:

(1) ''Wooden vessel of historical significance'' means any wooden vessel that is a refurbished original, wooden inland waters vessel of 47 feet or larger, built in California during or prior to 1910, that continuously thereafter has remained in California waters, and that has been designated a California State Historical Landmark.

(2) ''Regularly open to the public'' means that the museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

History.—Added by Stats. 2000, Ch. 601 (AB 659), in effect September 24, 2000.

Note.—Section 4 of Stats. 2000, Ch. 601 provided that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

231. **Property leased to government.** (a) Property which is owned by a nonprofit corporation and leased to, and used exclusively by, government for its interest and benefit shall be exempt from taxation within the meaning of ''charitable purposes'' in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution if:

(1) All of the provisions of Section 214 are complied with, except paragraph (6) of subdivision (a). For purposes of paragraph (6) of subdivision (a) of Section 214, irrevocable dedication to charitable purpose shall be deemed to exist if the lease provides that the property shall be transferred in fee to the entity of government leasing the same upon the sooner of either the liquidation, dissolution, or abandonment of the owner or at the time the last rental payment is made under the provisions of the lease.

(2) All of the provisions of Section 254.5 relating to owners are complied with, commencing during calendar year 1969.

(3) All of the provisions of Section 214.01 are complied with by March 15, 1970.

(b) As used in this section ''property'' means:

(1) Any building or structure of a kind or nature which is uniquely of a governmental character and includes, but is not limited to, the following:

(A) City halls.

(B) Courthouses.

(C) Administration buildings.

(D) Police stations, jails, or detention facilities.

(E) Fire stations.

(F) Parks, playgrounds, or golf courses.

(G) Hospitals.

(H) Water systems and waste water facilities.

(I) Toll bridges.

(2) Any other property required for the use and occupation of the buildings and leased to government.

(3) Any possessory interest of the nonprofit corporation in property and in the land upon which the property was constructed and so much of the surrounding land that is required for the use and occupation of the property.

(4) Any building and its equipment in the course of construction on or after the first Monday of March, 1954, together with the land on which it is located as may be required for the use and occupation of the building when such building and equipment is being constructed for the sole purpose of being leased to government to lessen its burden.

''Uniquely of a governmental character'' means the property, except hospitals, water systems, waste water facilities, golf courses, and toll bridges, is not intended to produce income or revenue in the form of rents or admission, user or service fees, or charges.

(c) As used in this section ''property'' does not include any possessory interest of any person or organization not exempt from taxation.

(d) As used in this section ''nonprofit corporation'' means a community chest, fund, foundation or corporation, not conducted for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and that nonprofit corporation is organized and operated for the sole purpose of leasing property to government and to lessen the burden of government and, in fact, only leases property to government. That nonprofit

corporation shall qualify as an exempt organization either under Section 23701f or 23701u of this code or Section 501(c)(4) of the Internal Revenue Code of 1986. This subdivision is not intended to enlarge the ''welfare exemption'' to apply to organizations qualified under Section 501(c)(4) of the Internal Revenue Code of 1986 but not otherwise qualified for the ''welfare exemption'' under this section. Nonprofit corporations meeting the tests of this subdivision are deemed to be organized and operated for charitable purposes.

(e) As used in this section ''government'' means the State of California, a city, city and county, county, public corporation, and a hospital district.

(f) The exemption provided for in this section shall be deemed to be within the ''welfare exemption'' for purposes of Section 251.

(g) For leases first entered into by and between government and nonprofit corporation on or after January 1, 1969, all requirements of this section shall be met for the property and the nonprofit corporation to qualify for the exemption provided by this section.

(h) For leases first entered into by and between government and nonprofit corporation on or before December 31, 1968, all requirements of this section shall be met except that the last unnumbered paragraph of subdivision (b) shall not apply and for the purposes of subdivision (b)(1) the list of real property qualifying for this exemption includes community recreation buildings or facilities, golf courses, airports, water, sewer and drainage facilities, music centers and their related facilities, and public parking incidental to and in connection with one of the buildings or structures set forth in this section.

(i) Property exempt under this section shall be located within the boundaries of the entity of government leasing the same.

(j) Where the construction has commenced on or after January 1, 1969, improvements shall be advertised and put to competitive bid to qualify for the exemption provided by this section.

(k) For purposes of subdivision (d), a nonprofit corporation shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor duplicate copies of a valid, unrevoked letter or ruling from either the Franchise Tax Board or, in the alternative, the Internal Revenue Service, which states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code.

History.—Added by Stats. 1968, p. 2823, in effect November 13, 1968. Stats. 1974, Ch. 452, p. 1066, in effect July 11, 1974, added (G) to subdivision (b)(1), and added ", except hospitals," after "property" in the first sentence of the second paragraph of subdivision (b)(4); and added ", and a hospital district" after "county" in the first sentence of subdivision (e). Sec. 3 thereof provided no payment by state to local governments because of this act. Stats. 1974, Ch. 896, p. 1897, in effect January 1, 1975, substituted "Subdivision (b) of Section 4 and Section 5" for "Section 1c" in the first sentence of subdivision (a). Stats. 1977, Ch. 1004, in effect September 23, 1977, added subparagraph "H" to paragraph 1 of subdivision (b). Also added "water systems, and waste water facilities," in paragraph 4 of subdivision (b) and added "public corporation" to subdivision (e). Stats. 1982, Ch. 1465, in effect January 1, 1983, added subparagraph "I" to paragraph (1) of subdivision (b), and added "and toll bridges" after "facilities" in the fifth paragraph thereof. Stats. 1986, Ch. 1457, effective January 1, 1987, added "either" after "exempt organization" and substituted "f" for "F" after "Section 23701" in the second sentence of subdivision (d); and added subdivision (k). Stats. 1987, Ch. 498, in effect January 1, 1988, inserted "California" before "Constitution" and deleted "of the State of California" after "Constitution" in the first sentence of subdivision (a); substituted "paragraph (6) of subdivision (a)" for "subdivision (6)" after "except" in the first

sentence and after "of" in the second sentence of subdivision (a)(1); and substituted "that" for "such" in the first sentence, substituted "That" for "Such" and substituted "1986" for "1954" after "Code of" in the second sentence, and substituted "1986" for "1954" after "Code of" in the third sentence of subdivision (d). Stats. 1988, Ch. 571 in effect August 26, 1988 added "or 23701u" after "section 23701f" in the second sentence of subdivision (d). Stats. 1990, Ch. 489, in effect January 1, 1991, inserted a comma after "Parks" and added ", or golf courses" after "playgrounds" in subparagraph (F) of paragraph (1) and added ", golf courses," after "water facilities" in the second paragraph of paragraph (4) of subdivision (b).

Note.—Section 2 of Stats. 1974, Ch. 452, p. 1067, provided that section shall apply to exemptions for fiscal year 1973–74 and fiscal years thereafter. A hospital for which a claim for exemption for fiscal year 1973–74 is not timely filed may have an exemption filed on its behalf for such year under Article 2.5 (commencing with Section 270) of Chapter 1 of Part 2 of Division 1 hereof.

Note.—Section 5 of Stats. 1988, Ch. 571, provided that legislation adding Section 23701u of the Revenue and Taxation Code in the 1987 portion of the 1987–88 session of the Legislature inadvertently omitted the amendment of Section 231 to incorporate the reference to Section 231. The amendment of Section 231 by Section 3 of this act corrects that inadvertent omission, and does not constitute a change in, but is declaratory of, existing law. Sec. 7 thereof provided that no reimbursement shall be made from the State Mandates Claims Fund.

232. **Cargo containers.** All cargo containers principally used for the transportation of cargo by vessels in ocean commerce shall be exempt from property taxation.

Any tax exemption created by this section shall not apply to a cargo-carrying vehicle subject to the registration provisions of Section 4000 of the Vehicle Code.

The term ''container'' means a receptacle.

(a) Of a permanent character and accordingly strong enough to be suitable for repeated use;

(b) Specially designed to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by vessels, without intermediate reloading;

(c) Fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another;

(d) So designed to be easy to fill and empty; and

(e) Having a cubic displacement of 1,000 cubic feet or more.

History.—Added by Stats. 1974, Ch. 1405, p. 3079, in effect January 1, 1975, operative from the lien date in 1975 to the lien date in 1978, inclusive, and after that date shall have no further force or effect. Stats. 1979, Ch. 5, in effect February 28, 1979, extended operative date to the lien date in 1980. Stats. 1980, Ch. 1115, in effect January 1, 1981, made the exemption permanent.

Note.—Section 2 of Stats. 1974, Ch. 1405, p. 3079, provided that the Legislative Analyst shall report to the Legislature on or before December 31, 1977, on the net revenue effect of the act, which shall include, but not be limited to, the change in economic activity, change of employment, and sales to and by the maritime industry and businesses serving the maritime industry, including any multiplier effect, and the increase in tax revenue due to such activity. Sec. 3 thereof provided for state reimbursement for revenue lost. Stats. 1979, Ch. 5, in effect February 28, 1979, provided that the Legislative Analyst shall report to the Legislature on or before July 1, 1983; that the report shall also include an analysis of the impact of the change in economic activity, etc., on a county-by-county or regional basis, to the extent practicable; and that the report shall contain a recommendation of renewal or repeal of the exemption. Section 1 of Stats. 1980, Ch. 1115, relieved the Legislative Analyst of his obligation to report to the Legislature.

233. **Goods imported in containers.** [Repealed by Stats. 1984, Ch. 678, in effect January 1, 1985.]

234. **Seed potatoes.** Seed potatoes of a grower, which are personal property, held on the lien date for subsequent planting in field form and planted during the assessment year by the grower shall be exempt from taxation. This section does not apply to plant nurseries.

History.—Added by Stats. 1974, Ch. 14, p. 25, in effect February 7, 1974, operative March 1, 1974. Sec. 2 thereof provided no payment by state to local governments because of this act. Stats. 1981, Ch. 714, in effect January 1, 1982, renumbered the section which was formerly numbered 232.

235. **Tangible personal property leased by a bank or financial corporation.** For the purposes of this division, the lessee of tangible personal property owned by a bank or financial corporation shall be conclusively presumed the owner of that property.

History.—Added by Stats. 1986, Ch. 1457, effective January 1, 1987.

236. **Exemption; leases for rental housing.** Property leased for a term of 35 years or more or any transfer of property leased with a remaining term of 35 years or more where the lessor is not otherwise qualified for a tax exemption pursuant to Section 214, which is used exclusively and solely for rental housing and related facilities for tenants who are persons of low income (as defined in Section 50093 of the Health and Safety Code), and is leased and operated by religious, hospital, scientific, or charitable funds, foundations or corporations, public housing authorities, public agencies, or limited partnerships in which the managing general partner has received a determination that it is a charitable organization under Section 501(c)(3) of the Internal Revenue Code and is operating the property in accordance with its exempt purpose is exempt from taxation on the possessory interest and the fee interest in the property throughout the term of the lease.

Low- and moderate-income has the same meaning as the term ''persons and families of low- and moderate-income'' as defined by Section 50093 of the Health and Safety Code.

History.—Added by Stats. 1988, Ch. 1296, in effect January 1, 1989.

Note.—Section 2 of Stats. 1988, Ch. 1296, provided that notwithstanding Section 2229, the requirements of that section relating to any exemption of property for more than five years or for more than 75 percent of the value thereof shall not apply to the exemption made by this act. Sec. 3 thereof provided that this act shall be applicable to property taxes levied for the 1989–90 fiscal year and fiscal years thereafter.

236.5. **Exemption; leases for public parks.** Any otherwise taxable interest in real property, leased for an original term of 35 years or more and used exclusively by the lessee for the operation of a public park that is uniquely of a governmental character, as described in paragraph (4) of subdivision (b) of Section 231, is, during the term of the lease, within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution, if all of the following conditions are met:

(a) The lessee is a charitable foundation that has received a determination that it is a charitable organization as described in Section 501(c)(3) of the Internal Revenue Code.

(b) The operation of the public park by the lessee is within the tax exempt purposes of the lessee.

(c) The lessee acquired the leasehold in the property by means of a charitable donation.

(d) Under the terms of the lease, the lessee will acquire the entire ownership interest in the property on or before the end of the lease term.

History.—Added by Stats. 2001, Ch. 609 (SB 882), in effect October 9, 2001.

Note.—Section 2 of Stats. 2001, Ch. 609 (SB 882) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

237. **Exemption; Indian Tribal owned low-income rental housing.** (a) (1) Subject to the requirements set forth in paragraph (2), there is exempt from taxation under this part that portion of the assessed value of property, owned and operated by a federally recognized Indian tribe or its tribally designated housing entity, that corresponds to that portion of the property that is continuously available to, or occupied by, lower income households, as defined in Section 50079.5 of the Health and Safety Code or applicable federal, state, or local financing agreements, at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or rents that do not exceed those prescribed by the terms of the applicable federal, state, or local financing agreements or financial assistance agreements.

(2) The exemption set forth in subdivision (a) applies only if the property and entity meet the following requirements:

(A) At least 30 percent of the property's housing units are either continuously available to, or occupied by, lower income households, as defined in Section 50079.5 of the Health and Safety Code or applicable federal, state, or local financing agreements, at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or rents that do not exceed those prescribed by the terms of the applicable federal, state, or local financing agreements or financial assistance agreements.

(B) The housing entity is nonprofit.

(C) No part of the net earnings of the housing entity inure to the benefit of any private shareholder or individual.

(b) In lieu of the tax imposed by this part, a tribe or tribally designated housing entity may agree to make payments to a county, city, city and county, or political subdivision of the state for services, improvements, or facilities provided by that entity for the benefit of a low-income housing project owned and operated by the tribe or tribally designated housing entity. Any payments in lieu of tax may not exceed the estimated cost to the city, county, city and county, or political subdivision of the state of the services, improvements, or facilities to be provided.

(c) A tribe or tribally designated housing entity applying for an exemption under this section shall provide the following documents to the assessor:

(1) Documents establishing that the designating tribe is federally recognized.

(2) Documents establishing that the housing entity has been designated by the tribe.

(3) Documents establishing that there is a deed restriction, agreement, or other legally binding document requiring that the property be used in compliance with subparagraph (A) of paragraph (2) of subdivision (a).

(d) This exemption shall be known as the "tribal housing exemption."

History.—Added by Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000. Stats. 2000, Ch. 601 (AB 659), in effect September 24, 2000, added paragraph designation (1) to the former first sentence of subdivision (a), substituted "Subject to the requirements . . . assessed value of property," for "Property" before "owned and operated", and substituted ", that corresponds . . . assistance agreements" for "is not subject to taxation under this part" after "housing entity" therein; created new paragraph (2) by adding "The exemption set forth in subdivision (a) applies only"

to the balance of the former first sentence commencing with "if the property", designated former paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, of new paragraph (2) of subdivision (a), and substituted "At least 30 percent . . . assistance agreements." for the former first sentence of former paragraph (1) which provided that "The property is used exclusively and solely for the charitable purpose of providing rental housing and related facilities for tenants who are persons of low income (as defined in Section 50093 of the Health and Safety Code)." therein; deleted "providing" after "state for", and added "provided" after "facilities" in the first sentence of subdivision (b); and substituted "requiring that the property be used in compliance with subparagraph (A) of paragraph (2) of subdivision (a)." for "restricting the property's use to low-income housing and that provides that the property's housing units are continuously available to or occupied by persons who are low income, as defined by Section 50093 of the Health and Safety Code, at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflict with that section, rents that do not exceed those prescribed by the terms of the financing agreements or financial assistance agreements." after "binding document" in the first sentence of paragraph (3) of subdivision (c). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "recognized" for "designated" after "by a federally", added "or applicable federal, state, or local financing agreements," after "Health and Safety Code", deleted ", to the extent that the terms of federal, state, or local financing or financial assistance conflict with that section," after "Health and Safety Code, or", and added "applicable federal, state, or local" after "terms of the" in the first sentence of paragraph (1), and added "or applicable federal, state, or local financing agreements" after "Health and Safety Code", deleted ", or to the extent that the terms of federal, state, or local financing or financial assistance conflict with that section," after the "Health and Safety Code, or", and added "applicable federal, state, or local" after "terms of the" in the first sentence of subparagraph (A) of paragraph (2) of subdivision (a); and added subdivision (d).

Note.—Section 41 of Stats. 1999, Ch. 941 (SB 1231) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Note.—Section 4 of Stats. 2000, Ch. 601 (AB 659) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

241. **Employee-owned hand tools.** (a) The first fifty thousand dollars ($50,000) of personal property that consists of hand tools owned and supplied by an employee that are required as a condition of that employee's employment are exempt from taxation.

(b) For purposes of this section:

(1) ''Hand tools'' means hand-held implements and equipment, including hand-held power tools, of which any one may be transported to and from the workplace and which are necessary for the ordinary and regular performance of the employee's work, and also means the appropriate storage containers used to store those implements and that equipment.

(2) ''Hand tools owned and supplied by an employee'' means only those hand tools that are either owned by the employee prior to the employment or acquired and paid for by the employee during the employment, that the employee will continue to own after termination of the employment.

(3) ''Employee'' means any individual who is employed by an employer that directly or indirectly supervises that person and exercises control over the wages and working conditions of individual workers. ''Employee'' does not include a self-employed individual or an independent contractor.

History.—Added by Stats. 1994, Ch. 527, in effect September 12, 1994. Stats. 2001, Ch. 161 (AB 136), in effect August 9, 2001, substituted "fifty" for "twenty" after "The first" and substituted "($50,000)" for "($20,000)" after "dollars" in the first sentence of subdivision (a).

Note.—Section 2 of Stats. 2001, Ch. 161 (AB 136) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

Article 2. Procedure to Claim Exemptions

251. **Authority to prescribe.** (a) The board shall prescribe all procedures and forms required to carry into effect any property tax exemption enacted by statute or constitutional amendment.

(b) (1) The procedures prescribed pursuant to subdivision (a) shall be deemed satisfied by a qualified lessor by submission to the assessor within 120 days of the commencement date of the lease, or 120 days after the effective date of the act adding this subdivision to this section with respect to any existing lease, whichever is later, information which may be requested by the board with respect to the lease.

(2) For purposes of this subdivision, ''a qualified lessor'' is a lessor under a contract designated as a lease between that lessor and an entity using property which qualifies for the property tax exemption provided for by subdivision (d) or (e) of Section 3 of Article XIII of the California Constitution under which the lessee has the option at the end of the lease term of acquiring the property described in the lease for one dollar ($1), or any other nominal sum.

(3) No filing or application for exemption shall thereafter be required by a qualified lessor with respect to that lease unless the option terms of the lease change.

History.—Stats. 1945, p. 707, in effect September 15, 1945, added the word "welfare." Stats. 1965, p. 4280, in effect September 17, 1965, added "immature forest trees." Stats. 1966, p. 657 (First Extra Session), in effect October 6, 1966, first operative for the 1967–68 assessment year, added "cemetery" and "fruit and nut trees and vines, and." Stats. 1967, p. 17, in effect March 6, 1967, eliminated "fruit and nut trees and vines." Stats. 1968, p. 618, in effect November 13, 1968, substituted "procedure" for "procedures" and "veterans' " for "veteran's". Stats. 1968, p. 9 (First Extra Session), in effect September 23, 1968, operative March 1, 1969, added "homeowners' ". Stats. 1972, p. 194, in effect March 7, 1973, operative on the lien date in 1973, added "veterans' organization". Stats. 1974, Ch. 311, p. 602, in effect January 1, 1975, deleted "orphanage," after "cemetery,", and added ", free public libraries, free museums, public schools" after "welfare". Stats. 1977, Ch. 246, in effect January 1, 1978, deleted "and" between "schools" and "homeowners' " and added "and transshipment". Stats. 1978, Ch. 1112, in effect January 1, 1979, deleted the words "immature forest trees". Stats. 1981, Ch. 542, in effect January 1, 1982, added "religious" after "exhibition". Stats. 1987, Ch. 703, in effect January 1, 1988, added "(a)" before the first paragraph and added subdivision (b). Stats. 1988, Ch. 1271, in effect September 26, 1988, substituted "any property tax exemption enacted by statute or constitutional amendment." for specified exemptions after "effect" in subdivision (a).

252. **Veterans' exemption.** When making the first claim any person claiming the veterans' exemption, or the spouse, legal guardian, or conservator of such person, or one who has been granted a power of attorney by such person, shall appear before the assessor, shall give all information required and answer all questions in an affidavit prescribed by the State Board of Equalization, and shall subscribe and swear to the affidavit before the assessor. The assessor may require other proof of the facts stated before allowing the exemption. In subsequent years the person claiming the veterans' exemption, or the spouse, legal guardian, or conservator of such person, or one who has been granted a power of attorney by such person, may file the affidavit under penalty of perjury by mail.

Where a claim is filed by a legal guardian or conservator of a person claiming the veterans' exemption, or one who has been granted a power of attorney by such claimant, the person filing the affidavit shall declare that he has sufficient knowledge of the financial affairs of the claimant to give all information required and answer all questions in the affidavit under penalty of perjury.

History.—Stats. 1941, p. 409, operative February 1, 1941, substituted "Any person claiming" for "Every person applying for" at beginning of section. Stats. 1949, p. 27, in effect February 3, 1949, added "or the spouse of such person" in the first sentence. Stats. 1951, p. 2378, added provisions limiting requirement of personal appearance to the first claim, and authorizing mailing of affidavits in subsequent years. Stats. 1966, p. 657 (First Extra Session), in effect October 6, 1966, first operative for the 1967–68 assessment year, added "prescribed by the State Board of Equalization" and "under penalty of perjury", and deleted "on such forms as the assessor shall require" following "by mail." Stats. 1969, p. 387, in effect November 10, 1969, added the references to legal guardian, conservator or persons granted a power of attorney, in the first paragraph, and added the second paragraph.

252.1. **Veterans' exemption; transmittal of duplicate.** Among other facts, the veterans' exemption affidavit shall contain a statement, showing the claimant's residence. When the affidavit is filed in county other than the county of the claimant's residence, it shall be filed in duplicate and the assessor shall transmit the duplicate copy to the assessor of the county of residence.

History.—Added by Stats. 1943, p. 1988, in effect August 4, 1943. Stats. 1974, Ch. 1107, p. 2368, in effect September 23, 1974, operative with respect to the 1974–75 fiscal year and thereafter renumbered the section which was formerly numbered 255.5, and substituted "the veterans' exemption affidavit" for "the affidavit" in the first sentence.

253. **Veterans' exemption; making affidavit.** If, because of active military service of the United States in time of war, sickness or other cause found to be unavoidable in the judgment of the assessor, an applicant for the

veterans' exemption is unable to attend in person before the assessor, and no deputy is available to go to the place where he is located, then the applicant may make and subscribe the affidavit before any person authorized to administer an oath. If, during time of war, the applicant is in active military service of the United States or of any nation with which the United States is allied, or is outside of the continental limits of the United States, or if the person entitled to the exemption is insane or mentally incompetent, a member of his immediate family, his guardian, or legal representative, having personal knowledge of the facts required to be set forth, may appear before the assessor and may make and subscribe the affidavit on his behalf.

History.—Stats. 1943, p. 2540, in effect May 26, 1943, added material relating to veterans in active military service.

253.5. **Homeowners' exemption.** Any person claiming the homeowners' property tax exemption shall submit to the assessor an affidavit, giving any information required by the board. Such information shall include, but shall not be limited to, the name of the person claiming the exemption, the address of the property, and a statement to the effect that the claimant owned and occupied the property as his principal place of residence on the lien date, or that he owns and intends to occupy the property as his principal place of residence on the next succeeding lien date.

A claim for the homeowners' exemption filed by the owner of a dwelling, as defined in Section 218, once granted for the 1974–75 fiscal year or any fiscal year thereafter, shall remain in effect until such time as title to the property changes, the owner does not occupy the home as his principal place of residence on the lien date, or the property is otherwise ineligible pursuant to the provisions of Section 218.

If the exemption is lost by the owner of the property for any reason, he may file a new claim in the same manner as a new owner may file one.

History.—Added by Stats. 1974, Ch. 60, p. 129, in effect March 12, 1974. Stats. 1974, Ch. 1107, p. 2366, in effect September 23, 1974, operative with respect to the 1974–75 fiscal year and thereafter, substituted "submit to the assessor" for "make a return of the property to the assessor, the same as property is listed for taxation, and shall accompany it by" in the first sentence, and substituted "he owns and intends to" for "he intends to own and" in the second sentence of the first paragraph; and added the second and third paragraphs.

253.10. **Transshipment exemption.** [Repealed by Stats. 1984, Ch. 678, in effect January 1, 1985.]

254. **Other exemptions.** Any person claiming the church, cemetery, college, exhibition, welfare, veterans' organization, free public libraries, free museums, aircraft of historical significance, tribal housing, or public schools property tax exemption and anyone claiming the classification of a vessel as a documented vessel eligible for assessment under Section 227, shall submit to the assessor annually an affidavit, giving any information required by the board.

History.—Stats. 1945, p. 707, in effect September 15, 1945, added the word "welfare." Stats. 1965, p. 4280, in effect September 17, 1965, added the second paragraph. Stats. 1967, p. 2195, in effect November 8, 1967, added "cemetery." Stats. 1968, p. 9 (First Extra Session), in effect September 23, 1968, operative March 1, 1969, added the homeowner's exemption to the first paragraph and all of the third paragraph. Stats. 1969, p. 1939, in effect November 10, 1969, added the fourth paragraph relating to documented vessels. Stats. 1970, p. 766, in effect November 23, 1970, substituted "a filing once made . . . originally claimed as exempt." for "each owner or new owner of timber need file only when making his original claim for exemption." in the first sentence of the second paragraph. Stats. 1972, p. 194, in effect March 7, 1973, operative on the lien date in 1973, added "veterans' organization" to the first paragraph. Stats. 1974, Ch. 1107, p. 2366, in effect September 23, 1974, operative with respect to the 1974–75 fiscal year and thereafter, substituted

"free public libraries, free museums, or public schools" for "or homeowner's", and substituted "and anyone claiming the classification of a vessel as a documented vessel eligible for assessment under Section 227, shall submit to the assessor annually" for "shall make a return of the property to the assessor annually, the same as property is listed for taxation, and shall accompany it by" in the first sentence of the first paragraph; and deleted the former third paragraph relating to information to be furnished; and deleted the former fourth paragraph relating to persons claiming the classifications of vessels as documented vessels eligible for assessment under Section 227. Stats. 1974, Ch. 1107, p. 2366, in effect November 5, 1974, operative with respect to the 1974–75 fiscal year and thereafter, deleted "orphanage," after "cemetery," in the first sentence of the first paragraph. Stats. 1978, Ch. 1112, in effect January 1, 1978, deleted the last paragraph of the section which provided "any person claiming the immature forest trees exemption shall meet the requirements mentioned above except that a filing once made shall continue in effect until such time as there is a change in the exterior boundary of the property originally claimed as exempt." Stats. 1988, Ch. 1271, in effect September 26, 1988, added "aircraft of historical significance," after "museums,". Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, added "tribal housing," after "significance," in the first sentence.

Mandamus.—Mandamus was a proper procedure to compel a county tax assessor to permit inspection by a taxpayer of an affidavit or declaration of exemption submitted by a claimant and the assessor's records showing his ruling thereon; preliminary pursuance of any administrative procedure was unnecessary. *Gallagher* v. *Boller,* 231 Cal.App.2d 482.

254.2. **Federal property used for protection of migratory birds.** All property owned by the United States or any agency thereof and used exclusively for migratory water fowl refuges, or used for the promotion or protection of migratory water fowl or for migratory water fowl public shooting grounds is exempt from taxation. No affidavit need be filed for this exemption.

History.—Added by Stats. 1947, p. 1701, in effect September 19, 1947.

254.5. **Welfare exemption.** (a) Affidavits for the welfare exemption and the veterans' organization exemption shall be filed in duplicate on or before February 15 of each year with the assessor. Affidavits of organizations filing for the first time shall be accompanied by duplicate certified copies of the financial statements of the owner and operator. Thereafter, financial statements shall be submitted only if requested in writing by either the assessor or the board. Copies of the affidavits and financial statements shall be forwarded not later than April 1 by the assessor with his or her recommendations for approval or denial to the board which shall review all the affidavits and statements and may institute an independent audit or verification of the operations of the owner and operator to ascertain whether both the owner and operator meet the requirements of Section 214 of the Revenue and Taxation Code. In this connection the board shall consider, among other matters, whether:

(1) The services and expenses of the owner or operator (including salaries) are excessive, based upon like services and salaries in comparable public institutions.

(2) The operations of the owner or operator, either directly or indirectly, materially enhance the private gain of any individual or individuals.

(3) Any capital investment of the owner or operator for expansion of a physical plant is justified by the contemplated return thereon, and required to serve the interests of the community.

(4) The property on which the exemption is claimed is used for the actual operation of an exempt activity and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(b) The board shall make a finding as to the eligibility of each applicant and the applicant's property and shall forward its finding to the assessor concerned. If the board conducts a hearing with respect to the eligibility of the

applicant and the applicant's property, the finding shall be forwarded to the assessor concerned within 30 days after the decision is made by the board following the hearing. The assessor may deny the claim of an applicant that the board finds eligible but may not grant the claim of an applicant the board finds ineligible.

(c) Notwithstanding subdivision (a), an applicant, granted a welfare exemption and owning any property exempted pursuant to Section 214.15 or Section 231, shall not be required to reapply for the welfare exemption in any subsequent year in which there has been no transfer of, or other change in title to, the exempted property and the property is used exclusively by a governmental entity or by a nonprofit corporation described in Section 214.15 for its interest and benefit. The applicant shall notify the assessor on or before February 15 if, on or before the preceding lien date, the applicant became ineligible for the welfare exemption or if, on or before that lien date, the property was no longer owned by the applicant or otherwise failed to meet all requirements for the welfare exemption.

Prior to the lien date, the assessor shall annually mail a notice to every applicant relieved of the requirement of filing an annual application by this subdivision.

The notice shall be in a form and contain that information that the board may prescribe, and shall set forth the circumstances under which the property may no longer be eligible for exemption, and advise the applicant of the duty to inform the assessor if the property is no longer eligible for exemption.

The notice shall include a card that is to be returned to the assessor by any applicant desiring to maintain eligibility for the welfare exemption under Section 214.15 or Section 231. The card shall be in the following form:

> To all persons who have received a welfare exemption under Section 214.15 or Section 231 of the Revenue and Taxation Code for the _____fiscal year.
>
> Question: Will the property to which the exemption applies in the _____fiscal year continue to be used exclusively by government or by an organization as described in Section 214.15 for its interest and benefit in the _____fiscal year?
>
> YES_____ NO_____
>
> Signature: _____
>
> Title: _____
>
> Failure to return this card does not of itself constitute a waiver of exemption as called for by the California Constitution, but may result in onsite inspection to verify exempt activity.

(d) Upon any indication that a welfare exemption has been incorrectly granted, the assessor shall redetermine eligibility for the exemption. If the assessor determines that the property, or any portion thereof, is no longer

eligible for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for the exemption.

(e) If a welfare exemption has been incorrectly allowed, an escape assessment as provided by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption, with interest as provided in Section 506, shall be made, and a penalty shall be assessed for any failure to notify the assessor as required by this section in an amount equaling 10 percent of the escape assessment, but may not exceed two hundred fifty dollars ($250).

History.—Added by Stats. 1945, p. 2602, in effect September 15, 1945. Stats. 1966, p. 657 (First Extra Session), in effect October 6, 1966, first operative for the 1967–68 assessment year, substituted "March 15" for "April 1st", added the provision requiring that affidavits be forwarded to the board by April 1 with the assessor's recommendations, added the provision requiring that the board make and forward its finding to the assessor by June 1, deleted a provision that the assessor consider the board's finding, and added the last sentence. Stats. 1968, p. 1329, in effect November 13, 1968, added subdivision (d) and "and the applicant's property" to the first sentence of the second paragraph. Stats. 1969, p. 199, in effect May 13, 1969, added the second sentence of the second paragraph extending to June 15, in some cases, the date on which the board must make its finding. Stats. 1970, p. 461, in effect November 23, 1970, changed "of indirectly" to "or indirectly" in subdivision (b). Stats. 1971, p. 3516, in effect March 4, 1972, deleted "and 215" immediately after "Sections 214" in the second sentence of the first paragraph. Stats. 1972, p. 195, in effect March 7, 1973, operative on the lien date in 1973, added "veterans' organization" to the first paragraph. Stats. 1990, Ch. 718, in effect January 1, 1991, added "(a)" before "Affidavits"; deleted "concerned" after "assessor" in the first sentence and added "or her" after "his" in the second sentence in subdivision (a); substituted "(1)", "(2)", "(3)", and "(4)" for "(a)", "(b)", "(c)", and "(d)" and "on" for "in" after "The property" in subdivision (a); added "(b)" before "The board"; and added subdivisions (c), (d), and (e). Stats. 1993, Ch. 1187, in effect January 1, 1994, added a period after "assessor", deleted "and" after "assessor", added "Affidavits . . . first time" which created a new second sentence with the balance of the former first sentence, and added the third sentence to subdivision (a); and deleted "not later than June 1" after "concerned" in the first sentence, deleted "the time for making" after "property," and substituted "shall be forwarded" for "and forwarding it" after "finding" in the second sentence, and substituted "within 30 days . . . following the hearing" for "is extended to no later than June 15." after "concerned" in the third sentence of subdivision (b). Stats. 1994, Ch. 146, in effect January 1, 1995, substituted "the" for "such" after "review all" in the fourth sentence of subdivision (a), substituted "that" for "which" twice in subdivision (c), and reformatted notice in subdivision (c) by placing "Title:" underneath "Signature:". Stats. 1998, Ch. 695 (SB 2235), in effect January 1, 1999, substituted "February" for "March" after "on or before" in the first sentence of subdivision (a). Stats. 1999, Ch. 927 (AB 1559), in effect October 10, 1999, operative January 1, 2000, added "Section 214.15 or" before "Section 231", and added "or by a nonprofit corporation described in Section 214.15" after "governmental entity" in the first sentence of the first paragraph, and added "Section 214.15 or" before "Section 231" in the first and third sentences, added "or by an organization as described in Section 214.15" after "by government" in the fourth sentence of the fourth paragraph of subdivision (c); Stats. 2002, Ch. 214 (SB 2086), in effect January 1, 2003, added an "a" after "for expansion of" in the first sentence of paragraph (3) and added "the" after "property on which" in the first sentence of paragraph (4) of subdivision (a); substituted "If" for "In a case where" before "the board conducts" in the second sentence and added "that" after "of an applicant" in the third sentence of subdivision (b); substituted "February 15" for "March 15" after "on or before" in the second sentence of the first paragraph and added a comma after the first "eligible for exemption" in the first sentence of the third paragraph of subdivision (c); and substituted "may not exceed" for "in no event exceeding" after "escape assessment, but" in the first sentence of subdivision (e).

Revision after April 1.—A claimant may file a revision of claim withdrawing some of the property from the scope of its claim after April 1. *St. Francis Memorial Hospital* v. *San Francisco,* 137 Cal.App.2d 321.

Note.—See Sections 214 and 214.01.

Note.—Section 5 of Stats. 1999, Ch. 927 (AB 1559), provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

254.6. **Homes for the aged.** [Repealed by Stats. 1978, Ch. 1112, in effect January 1, 1979.]

255. **Time to file affidavits.** (a) Affidavits required for exemptions named in this article, except the homeowners' exemption, shall be filed with the assessor between the lien date and 5 p.m. on February 15.

(b) Affidavits for the homeowners' exemption except as otherwise provided in Sections 255.1, 255.2, and 275, shall be filed with the assessor any time after the claimant becomes eligible but no later than 5 p.m. on February 15.

(c) Notwithstanding the provisions of subdivision (a), any claimant who has been found ineligible for the church exemption or the religious exemption may file an affidavit for a welfare exemption. Affidavits for the welfare exemption filed pursuant to this subdivision shall be filed within 15 days from the date of notification by the assessor of the claimants ineligibility for the church exemption or the religious exemption.

History.—Stats. 1945, p. 2603, in effect September 15, 1945, added the clause "except the welfare exemption." Stats. 1947, p. 1700, in effect September 19, 1947, substituted "May" for "June." Stats. 1959, p. 2964, in effect September 18, 1959, added "o'clock" and substituted "first" for "last" before "Monday in May." Stats. 1966, p. 657 (First Extra Session), in effect October 6, 1966, substituted "lien date" for "first Monday in March" and "on April 15" for "the first Monday in May." Stats. 1968, p. 2580, in effect November 13, 1968, operative January 1, 1970, substituted "veterans' " for "welfare" and "March 15" for "April 15" in the first sentence, and added the second sentence. Stats. 1969, p. 895, operative January 1, 1970, added the references to the homeowner's exemption to the first and second sentences of the first paragraph. Stats. 1969, p. 3119, operative January 1, 1970, added the second paragraph relating to documented vessels. Stats. 1974, Ch. 60, p. 130, in effect March 12, 1974, substituted "homeowners' " for "homeowner's" in the first and second sentences, and added "except that affidavits for the homeowners' exemption may be filed any time after acquisition of a dwelling if such acquisition is after March 1, 1974, and the dwelling is occupied by an owner as his principal place of residence" to the second sentence of the first paragraph after "April 15". Stats. 1974, Ch. 1107, p. 2366, in effect September 23, 1974, operative with respect to the 1974–75 fiscal year and thereafter, substituted "Affidavits for the veterans' exemption" for "Veterans' exemptions and affidavits for the homeowners' exemption" in the second sentence, deleted the balance of the second sentence after "April 15", and added the third sentence of the first paragraph. Stats. 1976, Ch. 681, p. 1679, in effect January 1, 1977, added the subdivision letters, added "the church exemption," after "except" in subdivision (a), and added subdivision (d). Stats. 1977, Ch. 256, in effect January 1, 1978, added "and the transshipment exemption under Section 225," and deleted "o'clock" after "5" in subdivisions (a), (b), (c) and (d). Also added subdivision (e). Stats. 1978, Ch. 1112, in effect January 1, 1979, deleted the phrase in subdivision (e) "owns taxable property having an aggregate cost of less than thirty thousand dollars ($30,000)," and replaced it with the language "is not required to file a property statement,". Stats. 1981, Ch. 542, in effect January 1, 1982, added "and religious exemption" after "church exemption" in subdivision (d). Stats. 1983, Ch. 312, in effect January 1, 1984, substituted "religious exemption" for "transshipment exemption under Section 225" after "and the" in the first sentence of subdivision (a), and substituted subdivision (e) for former subdivision (e) which related to the transshipment exemption. Stats. 1988, Ch. 1271, in effect September 26, 1988, added "and aircraft of historical significance exemption," after "religious exemption" in subdivision (a), added "for the aircraft of historical significance exemption and" after "required" in subdivision (c). Stats. 1997, Ch. 941 (SB 542), in effect January 1, 1998, substituted "homeowners' exemption" for "church exemption, the veterans' exemption, the homeowners' exemption, the religious exemption, and the aircraft of historical significance exemption" after "except the" and substituted "February" for "March" after "5 p.m. on" in the first sentence and deleted the former second sentence which read "Affidavits for the veterans' exemption shall be filed with the assessor between the lien date and 5 p.m. on April 15." in subdivision (a); substituted "February" for "April" after "5 p.m. on" in the first sentence of subdivision (b); deleted former subdivisions (c) and (d) which read "(c) Affidavits required for the aircraft of historical significance exemption and for classification of vessels as documented vessels eligible for assessment under Section 227 shall be filed with the assessor between the lien date and 5 p.m. on April 1." and "(d) Affidavits for the church exemption and religious exemption shall be filed with the assessor between the lien date and 5 p.m. on March 31.", respectively; relettered former subdivision (e) as subdivision (c) and deleted "after timely filing an affidavit therefor pursuant to subdivision (d)," after "religious exemption" in the first sentence, and substituted "claimants' " for "claimants" in the second sentence of former subdivision (e).

Note.—Section 5 of Stats. 1983, Ch. 312, provided that no appropriation is made for the purpose of making reimbursement. Sec. 6 thereof provided that this act does not contain a repealer and shall remain in effect unless and until amended or repealed by a later enacted act.

255.1. **Homeowners' exemption affidavit; extension of time to file.** The assessor, whenever in his judgment good cause exists, may grant a reasonable extension of time for filing a claim for the homeowners' property tax exemption to any claimant who has filed a timely claim, but the claim is otherwise defective because it lacks either any of the required information or the signature of the claimant.

Only one extension shall be allowed to such claimant for any one filing period. No extension shall be more than six months from the due date provided for filing the claim, unless the assessor does not find and notify the claimant of the defect within a reasonable time to allow resubmission of the defective claim as corrected before the expiration of the six-month extension, in which case the assessor shall extend the permissible period for filing no more than three months from the time the defect or defects are found and the claimant is notified.

History.—Added by Stats. 1970, p. 458, in effect June 15, 1970, first operative with respect to claims for the 1970–71 fiscal year and fiscal years thereafter. Stats. 1971, p. 199, in effect June 17, 1971, first operative with respect to claims for the 1971–1972 fiscal year and fiscal years thereafter, substituted "any of the" for "all" before "required information" in the first sentence of the first paragraph.

255.2. **Homeowners' exemption for disqualified veteran.** Notwithstanding Section 255 of the Revenue and Taxation Code, any veteran who is filing for the veteran's exemption on his or her principal place of residence for the first time or who was found eligible for that exemption on his or her principal place of residence in the immediately preceding year and whose claim is timely filed but disallowed for the current year may, if otherwise qualified for the homeowner's exemption, file for the homeowner's exemption as provided herein.

The assessor shall notify those applicants he or she finds ineligible for the veteran's exemption of his or her finding and shall inform them that they have 15 days from the date of the notice to file for the homeowner's exemption. The failure of the assessor to provide the notice required by this section shall extend the filing period for those not notified to the next lien date.

History.—Added by Stats. 1970, p. 2444, in effect September 17, 1970. Stats. 1971, p. 3517 in effect March 4, 1972, added "timely filed but" between "claim is" and "disallowed" in the first sentence of the first paragraph. Stats. 1991, Ch. 646, in effect January 1, 1992, added "or her" after "his" in the first paragraph; added "or she" after "he" and added "or her" after "his" in the first sentence of the second paragraph; and deleted the former third paragraph which provided "For the 1970–71 fiscal year only, any veteran who would have qualified under this section for an extension of filing time for the homeowner's exemption shall have 15 days after the operative date of this section to file for the homeowner's exemption for the current fiscal year.".

255.3. **Homeowners' exemption affidavit; assessor to mail.** For the 1998–99 fiscal year and each fiscal year thereafter, the assessor shall on or before January 15 mail a claim form for the homeowners' exemption to a person acquiring title to, and recording his or her ownership of an eligible dwelling after the immediately preceding lien date and before the lien date of the calendar year of the claim. The failure of a person to receive a claim form shall not, however, excuse the person from timely filing of the required affidavit.

History.—Added by Stats. 1974, Ch. 60, p. 130, in effect March 12, 1974. Sec. 15 thereof provided no payment by state to local governments because of this act. Stats. 1974, Ch. 1107, p. 2367, in effect September 23, 1974, operative with respect to the 1974–75 fiscal year and thereafter, substituted "the assessor" for "county assessors" in subdivision (a); substituted "the assessor" for "county assessors", substituted ", on or before March 15, to each homeowner" for "to all homeowners", and added the balance of the first sentence after "lien date", reworded the second sentence relating to the contents of the notice, and added the third sentence of subdivision (b); and substituted "assessor" for "county assessor", substituted "before March 15" for "after the lien date", and substituted "a person acquiring title to, and recording his ownership" for "all persons acquiring title and who are owners of record" in the first sentence, and added the second sentence of subdivision (c). Sec. 20 thereof provided no payment by state to local governments because of this act. Stats. 1979, Ch. 65, in effect January 1, 1980 deleted requirement that assessor send homeowners' exemption claim to persons who had received claim in preceding year. Stats. 1997, Ch. 941 (SB 542), in effect January 1, 1998, substituted "1998–99" for "1974–75" after "For the", added "each fiscal year" before "thereafter", deleted "each year" after "shall", substituted "January" for "March" after "before", and added "or her" after "his" in the first sentence.

255.4. **Homeowners' exemption affidavit; accompanying notice.** [Repealed by Stats. 1979, Ch. 65, in effect January 1, 1980.]

255.6. **Homeowners' exemption; effective dates.** The assessor shall verify the eligibility of each claimant who is receiving a homeowners' exemption to continue to receive such an exemption in accordance with rules issued by the board to provide for a periodic audit and for the establishment of a control system for the homeowners' exemption claims.

History.—Added by Stats. 1974, Ch. 60, p. 131, in effect March 12, 1974. Stats. 1974, Ch. 1107, p. 2368, in effect September 23, 1974, operative with respect to the 1974–75 fiscal year and thereafter, deleted the former first paragraph; and deleted "of the county in which such a dwelling is situated" after "assessor", substituted "claimant" for "owner", deleted "and regulations, which shall be" after "rules", and deleted "," after "board" in the first sentence of the second paragraph.

Note.—Section 15 of Stats. 1974, Ch. 60, p. 133, provided no payment by state to local governments because of this act. Section 20 of Stats. 1974, Ch. 1107, p. 2372, provided no payment by state to local governments because of this act.

255.7. **Homeowners' exemption; recorders to supply assessors with documents.** Whenever a change of ownership is recorded in the county recorder's office, the county recorder shall provide the assessor with a copy of the transfer of ownership document as soon as possible.

History.—Added by Stats. 1974, Ch. 60, p. 131, in effect March 12, 1974. Sec. 15 thereof provided no payment by state to local governments because of this act.

255.8. **Notices and form to be in English and Spanish.** In counties having 10 percent or more persons who are of Spanish origin according to the most recent federal decennial census, claim forms and accompanying instructions required to be sent to homeowners by Section 255.3 shall be in English and Spanish. Claim forms and instructions in Spanish may also be sent or made available in any other county, at the discretion of the county assessor.

History.—Added by Stats. 1974, Ch. 1420, p. 3123, in effect January 1, 1975, Stats. 1975, Ch. 224, in effect January 1, 1976, renumbered the section which was formerly numbered 255.6. Stats. 1983, Ch. 1281, in effect September 30, 1983, substituted "of Spanish origin" for "Spanish surnamed or Spanish speaking" after "who are", substituted "claim forms and accompanying instructions" for "the notices required to be sent to homeowners by subdivision (b) of Section 255.3 and Section 255.4 and the instructions accompanying the claim form" after "census", and deleted "subdivision (c) of" before "Section 255.3" in the first sentence; and substituted "Claim forms and instructions" for "Notices" before "in Spanish" in the second sentence.

Note.—Section 2 of Stats. 1974, Ch. 1420, p. 3123, provided no payment by state to local governments because of this act.

256. **Church exemption affidavit.** (a) The affidavit for church exemption shall show that:

(1) The building and equipment are used solely for religious worship.

(2) The land claimed as exempt is required for the convenient use of the building.

(b) Each year before the lien date, county assessors shall mail a claim form for the church exemption to all recipients of such exemption in the prior year, except where the prior recipient has transferred title to the property since the prior lien date.

History.—Stats. 1975, Ch. 224, p. 603, in effect January 1, 1976, substituted "and equipment are" for "is" in subsection (a), substituted "land" for "described portion of the real property" in subsection (b), and deleted the former subsection (c) pertaining to rented property. Stats. 1976, Ch. 681, p. 1679, in effect January 1, 1977, added the subdivision letters; relettered the former subsections (a) and (b) as subsections (1) and (2), respectively; and added subdivision (b).

256.5. **Cemetery exemption affidavit.** The affidavit for the cemetery exemption shall show that:

(a) The property is used or held exclusively for the burial or other permanent deposit of the human dead or for the care, maintenance or upkeep of such property or such dead, and

(b) The property is not used or held for profit.

History.—Added by Stats. 1966, p. 658 (First Extra Session), in effect October 6, 1966, first operative for the 1967–68 assessment year.

257. **Religious exemption affidavit.** (a) Any person claiming the religious exemption shall submit to the assessor an affidavit giving specific information relating to property tax exemption.

(b) The affidavit shall show that:

(1) The building, equipment, and land are used exclusively for religious purposes.

(2) The land claimed as exempt is required for the convenient use of the building.

(3) The property is owned by an entity organized and operating exclusively for religious purposes.

(4) The entity is nonprofit.

(5) No part of the net earnings inures to the benefit of any private individual.

(c) Any exemption granted pursuant to a claim filed in accordance with this section, once granted, shall remain in effect until that time that title to the property changes or the property is no longer used for exempt purposes. Any person who is granted an exemption pursuant to a claim filed in accordance with this section shall notify the assessor by February 15 if the property becomes ineligible for the exemption.

(d) Upon any indication that a religious exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the religious exemption. If the assessor determines that the property or any portion thereof is no longer eligible for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for exemption.

If a religious exemption has been incorrectly allowed, an escape assessment as allowed by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption with interest as provided in Section 506 shall be made, together with a penalty for failure to notify the assessor, where applicable, in the amount of 10 percent of the assessment, but may not exceed two hundred fifty dollars ($250) in tax liability.

History.—Added by Stats. 1981, Ch. 542, in effect January 1, 1982. Stats. 1983, Ch. 312, in effect January 1, 1984, added "by June 30" after "assessor" in the second sentence of subdivision (c). Stats. 2002, Ch. 214 (SB 2086), in effect January 1, 2003, substituted "that time that" for "such time as" after "in effect until" in the first sentence and substituted "February 15" for "June 30" after "the assessor by" in the second sentence of subdivision (c); and substituted ", but may not" for "but not to" after "of the assessment" in the first sentence of the second paragraph of subdivision (d).

257.1. **Religious exemption; annual notice.** For the 1983–84 fiscal year and fiscal years thereafter, the assessor shall annually, prior to the lien date, mail a notice to every person who received the religious exemption for the previous fiscal year.

The notice shall be in a form and contain that information which the board may prescribe, and shall set forth the circumstances under which the property may no longer be eligible for exemption and advise the person of the duty to inform the assessor if the property is no longer eligible for exemption.

The notice shall include a card which is to be returned to the assessor by any person who desires to maintain eligibility for the religious exemption. That card shall be in the following form:

> To all persons who have received a religious exemption for the _____fiscal year.
>
> QUESTION: Will the property to which the exemption applies in the ____ fiscal year continue to be used exclusively for religious purposes in the ____ fiscal year?
>
> Yes ____ No ____
>
> Signature:_____ Title:_____
>
> Failure to return this card does not of itself constitute a waiver of exemption as called for by the California Constitution, but may result in onsite inspection to verify exempt activity.

History.—Added by Stats. 1981, Ch. 542, in effect January 1, 1982. Stats. 1983, Ch. 312, in effect January 1, 1984, added ", prior to the lien date," after "annually" in the first paragraph.

258. **College exemption affidavit.** The affidavit for the college exemption shall show that:

(a) The educational institution is of collegiate grade and is not conducted for profit.

(b) The grounds for which exemption is claimed are those within which its buildings are located.

(c) The property for which exemption is claimed is used exclusively for the purposes of education.

Any additional proof of the facts stated may be required by the assessor.

The exempt grounds need not be contiguous or in one tract.

History.—Stats. 1963, p. 998, in effect September 20, 1963, removed the 100-acre limitation on nonprofit educational institution's exemption.

259. **Exhibition exemption affidavit.** The affidavit for the exhibition exemption shall state the facts showing that the property comes within all the descriptions entitling it to the exemption.

259.5. **Welfare exemption affidavit.** The affidavit for the welfare exemption shall show that both the property and the owner meet all the requirements entitling the property to the exemption.

History.—Added by Stats. 1945, p. 707, in effect September 15, 1945.

259.6. **Affidavit for immature forest trees.** [Repealed by Stats. 1978, Ch. 1112, in effect January 1, 1979.]

259.7. **Veterans' organization exemption affidavit.** The affidavit for the veterans' organization exemption shall show that both the property and the owner meet all the requirements entitling the property to the exemption.

History.—Added by Stats. 1972, p. 196, in effect March 7, 1973, operative on the lien date in 1973.

259.8. **Free public libraries exemption affidavit.** The affidavit for the free public libraries exemption shall indicate the extent to which the property is open to the public, whether or not any admission or user charge

is made for the use of library books, periodicals or facilities and the extent (if any) to which sales or business activities are conducted on the premises.

History.—Added by Stats. 1974, Ch. 186, p. 373, in effect January 1, 1975.

259.9. **Free museums exemption affidavit.** The affidavit for the free museums exemption shall indicate whether or not any admission or user charge is made to those viewing the museum contents and the extent (if any) to which sales or business activities are conducted on the premises.

History.—Added by Stats. 1974, Ch. 186, p. 374, in effect January 1, 1975.

259.10. **Public schools exemption affidavit.** The affidavit for the public schools exemption shall show:

(a) The owner's name and the name of the school within the public school system that is using the property exclusively for public school purposes.

(b) The terms of the agreement by which the public school obtained the use of the property. When the agreement is in writing, a copy of the document shall accompany the affidavit.

History.—Added by Stats. 1974, Ch. 186, p. 374, in effect January 1, 1975.

259.11. **Historical aircraft exemption affidavit.** The affidavit for the aircraft of historical significance exemption shall show that both the property and the owner meet all the requirements entitling the property to the exemption.

History.—Added by Stats. 1988, Ch. 1271, in effect September 26, 1988.

259.12. **Historical aircraft exemption affidavit.** [Repealed by Stats. 1990, Ch. 126, in effect June 11, 1990.]

259.13. **Tribal housing exemption affidavit.** (a) Affidavits for the tribal housing exemption shall be filed on or before February 15 of each year with the assessor. Affidavits of claimants shall be accompanied by:

(1) The documents required by subdivision (c) of Section 237.

(2) A description of the property for which the exemption is claimed, including the entire project property and the portion for which exemption is claimed. If the property includes units which do not qualify for the exemption, the description must list the qualifying and nonqualifying units.

(3) An annual affidavit by the claimant that the property for which exemption is claimed meets the income and rental requirements for the exemption and listing the number of occupants in each unit for which the exemption is claimed and the income and rental limits applicable for each household. Annual tenant affidavits verifying household size and income should be on file with the claimant for each exempt unit.

(b) Once the exemption has been granted in a particular county to a particular tribe or tribally designated housing entity, documents establishing that the tribe is federally recognized and that the housing entity has been designated by the tribe need not be resubmitted for additional years or additional properties of that tribe or tribally designated housing entity in the same county.

(c) Once the exemption has been granted for a particular property, it is not necessary to resubmit documents establishing that there is a legally binding restriction on the use of that property in succeeding years for as long as the legally binding restriction is in effect.

(d) Upon any indication that a tribal housing exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the tribal housing exemption. If the assessor determines that the property or any portion thereof is no longer eligible for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for exemption.

(e) If a tribal housing exemption has been incorrectly allowed, an escape assessment as allowed by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption with interest as provided in Section 506 shall be made, together with a penalty for failure to notify the assessor, where applicable, in the amount of 10 percent of the assessment.

History.—Added by Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003.

260. **Noncompliance with procedure.** If any person, claiming any exemption named in this article, fails to follow the required procedure, the exemption is waived by the person.

History.—Stats. 1941, p. 409, operative February 1, 1941, substituted provision for waiver for former provision that property might be treated as if exemption did not exist.

Constitutionality.—The provisions of this section are valid. *Chesney* v. *Byram,* 15 Cal.2d 460.

261. **Recordation requirement.** (a) Except as otherwise provided in subdivisions (b) and (c), as a prerequisite to the allowance of either the veterans' or welfare exemption with respect to taxes on real property, the interest of the claimant in the property must be of record on the lien date in the office of the recorder of the county in which the property is located. Failure of the claimant to establish the fact of such recordation to the assessor constitutes a waiver of the exemption.

(b) A claimant for the veterans' exemption who on the lien date has an interest in real property consisting of an unrecorded contract of sale may in lieu of the recordation pursuant to subdivision (a) furnish or show the contract to the assessor and file an affidavit with the assessor stating all of the following:

(1) That he purchased the real property pursuant to such unrecorded contract of sale.

(2) That under such unrecorded contract of sale he is obligated and responsible for the payment of the taxes.

(c) A claimant for the welfare exemption which on the lien date has a possessory interest in publicly owned land, owns water rights, or owns improvements on land owned by another may in lieu of the recordation pursuant to subdivision (a) file a copy of the document giving rise to that possessory interest or water rights or file a written statement attesting to the separate ownership of those improvements with the assessor. That document copy or written statement shall not be required annually following the year in

which it has been filed but shall remain in effect until such time as that possessory interest terminates or ownership of the water rights or improvements transfers.

History.—Added by Stats. 1949, p. 2826, in effect October 1, 1949. Stats. 1961, p. 3284, in effect September 15, 1961, added the language "(a) Except as otherwise provided in subdivision (b)," and subdivision (b). Stats. 1984, Ch. 678, in effect January 1, 1985, substituted "subdivisions" for "subdivision" after "in", added "and (c)," after "(b)" in the first sentence in subdivision (a); added subdivision (c) thereto.

Construction.—Recordation of an interest in real property, required by subdivision (a) of this section as a prerequisite to the allowance of a welfare exemption, is not a prerequisite to the claims procedure, but rather is a part of the claims procedure. Thus, Section 214.12, which attempts retrospectively to eliminate the recordation requirement found in subdivision (a), is a legislative modification of the procedure of claiming the welfare exemption and is unconstitutional since it conflicts with Article XIII, Section 6 of the Constitution which proscribes retrospective legislative modification of the procedure for claiming a property tax exemption. *Copren* v. *State Board of Equalization,* 200 Cal.App.3d 828.

Article 2.5. Late Exemption Claims *

270. **Late filing; partial cancellation of tax.** (a) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, public schools, community colleges, state colleges, state universities, tribal housing, or welfare exemption was available but for which a timely application for exemption was not filed:

(1) Ninety percent of any tax or penalty or interest thereon shall be canceled or refunded provided an appropriate application for exemption is filed on or before the lien date in the calendar year next succeeding the calendar year in which the exemption was not claimed by a timely application.

(2) If the application is filed after the date specified in paragraph (1), 85 percent of any tax or penalty or interest thereon shall be canceled or refunded provided an appropriate application for exemption is filed and relief is not authorized under Section 214.01 or 271.

(b) Notwithstanding the provisions of subdivision (a), any tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount

* Article 2.5 was added by Stats. 1971, Ch. 303, p. 615, in effect July 12, 1971, operative for property taxes for the 1970–71 fiscal year and fiscal years thereafter.

shall be canceled or refunded provided it is imposed upon property entitled to relief under subdivision (a) for which an appropriate claim for exemption has been filed.

(c) With respect to property as to which the welfare exemption or veterans' organization exemption was available, all provisions of Section 254.5, other than the specified dates for the filing of affidavits and other acts, are applicable to this section.

History.—Stats. 1972, p. 196, in effect March 7, 1973, operative on the lien date in 1973, added "veterans' organization" to the first sentence of subdivision (a). Stats. 1974, Ch. 311, p. 602, in effect January 1, 1975, deleted "orphanage," after "exhibition," and added "free public libraries, free museums, public schools" after "veterans' organization" in the first sentence of subdivision (a). Stats. 1978, Ch. 936, in effect September 20, 1979, added "community colleges, state colleges, state universities" to the first paragraph. Sec. 14 of bill provided no reimbursement for local governments because of the provisions of the amendment. Stats. 1983, Ch. 120, in effect June 22, 1983, added "religious," after "church," in subdivision (a), and added subdivision (d). Stats. 1991, Ch. 646, in effect January 1, 1992, deleted subdivision (d) which provided that, for the 1977–78 to 1982–83 fiscal years, any tax, penalty, or interest, shall be canceled or refunded if the church or religious exemption was available and an appropriate claim for exemption was filed on or before March 1, 1984. Stats. 1995, Ch. 499, in effect January 1, 1996, substituted a colon for a dash at the end of the first paragraph, substituted "lien date in" for "first day of March of" after "before the", and substituted a period for "; or, if the application is filed thereafter," after "timely application" in paragraph (1), and substituted "If the application . . . in paragraph (1), 85" for "Eighty-five" before "percent of" in paragraph (2) of subdivision (a). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, added ", tribal housing," after "state universities" in the first sentence of subdivision (a).

Note.—Section 3 of Stats. 1983, Ch. 120, provided that no appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because self-financing authority is provided in this act.

271. **Property acquired after lien date; organizations not existing on lien date.** (a) Provided that an appropriate application for exemption is filed on or before the lien date in the calendar year next succeeding the calendar year in which the property was acquired, any tax or penalty or interest imposed upon:

(1) Property owned by any organization qualified for the college, cemetery, church, religious, exhibition, veterans' organization, tribal housing, or welfare exemption that is acquired by that organization during a given calendar year, after the lien date but prior to the first day of the fiscal year commencing within that calendar year, when the property is of a kind that would have been qualified for the college, cemetery, church, religious, exhibition, veterans' organization, tribal housing, or welfare exemption if it had been owned by the organization on the lien date, shall be canceled or refunded.

(2) Property owned by any organization that would have qualified for the college, cemetery, church, religious, exhibition, veterans' organization, tribal housing, or welfare exemption had the organization been in existence on the lien date, that was acquired by it during that calendar year after the lien date in that year but prior to the commencement of that fiscal year, and of a kind that presently qualifies for the exemption and that would have so qualified for that fiscal year had it been owned by the organization on the lien date and had the organization been in existence on the lien date, shall be canceled or refunded.

(3) Property acquired after the beginning of any fiscal year by an organization qualified for the college, cemetery, church, religious, exhibition, veterans' organization, tribal housing, or welfare exemption and the property is of a kind that would have qualified for an exemption if it had been owned

by the organization on the lien date, whether or not that organization was in existence on the lien date, shall be canceled or refunded in the proportion that the number of days for which the property was so qualified during the fiscal year bears to 365.

(b) Eighty-five percent of any tax or penalty or interest thereon imposed upon property that would be entitled to relief under subdivision (a) or Section 214.01, except that an appropriate application for exemption was not filed within the time required by the applicable provision, shall be canceled or refunded provided that an appropriate application for exemption is filed after the last day on which relief could be granted under subdivision (a) or Section 214.01.

(c) Notwithstanding subdivision (b), any tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount shall be canceled or refunded provided it is imposed upon property entitled to relief under subdivision (b) for which an appropriate claim for exemption has been filed.

(d) With respect to property acquired after the beginning of the fiscal year for which relief is sought, subdivisions (b) and (c) shall apply only to that pro rata portion of any tax or penalty or interest thereon which would have been canceled or refunded had the property qualified for relief under paragraph (3) of subdivision (a).

History.—Stats. 1972, p. 196, in effect March 7, 1973, operative on the lien date in 1973 added "veterans' organization" to subdivision (a)(1), (a)(2), and (a)(3). Stats. 1983, Ch. 312, in effect January 1, 1984, added "religious," after "church," and deleted "orphanage," after "exhibition," in subdivision (a)(1), (a)(2), and (a)(3). Stats. 1984, Ch. 144, in effect January 1, 1985, substituted "the" for "such" throughout the section, and deleted "the provisions of" after "under" in subdivision (b), after "notwithstanding" in subdivision (c), and after "sought," in subdivision (d). Stats. 1995, Ch. 499, in effect January 1, 1996, substituted "lien date in" for "first day of March of" after "before the" and substituted "imposed upon:" for "thereon-" in the first paragraph, substituted "Property" for "Imposed upon property" at the beginning of paragraphs (1), (2), and (3), and substituted a period for a semicolon at the end of paragraphs (1) and (2) in subdivision (a); and substituted "that" for "such" and "which" throughout the section. Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, added "tribal housing," after "veterans' organization," in paragraphs (1), (2), and (3) of subdivision (a).

Note.—Section 5 of Stats. 1983, Ch. 312, provided that no appropriation is made for the purpose of making reimbursement. Sec. 6 thereof provided that this act does not contain a repealer and shall remain in effect unless and until amended or repealed by a later enacted act.

Validity.—Subdivision (a)(3) providing for a proportionate refund with respect to taxes on property acquired after taxes had become a lien by an organization qualified for the welfare exemption, is not unconstitutional as depriving the taxing agency of its allegedly vested interest in the taxes, or as resulting in a gift of public funds or property in violation of Article XVI, Section 6 of the Constitution. *Community Television of So. Cal.* v. *Los Angeles County,* 44 Cal.App.3d 990.

272. **Action by assessor.** Notwithstanding any other provision of law, whenever a valid application for exemption is filed pursuant to Section 270 or 271 and the assessor receives the board finding pursuant to Section 254.5 prior to the completion of the roll for the year for which the exemption is claimed, the assessor shall enroll the property so as to provide for the amount of exemption on the property's assessed value as provided by the applicable section.

When the application for exemption or the finding of the board for that application is received after completion of the roll, the assessor shall initiate an action to correct the roll by addition of the appropriate amount of exemption on the property. Upon notification by the assessor, the auditor shall make the appropriate adjustment on the roll.

Where authorized under the provisions of this article, the tax, penalty or interest thereon subject to cancellation or refund shall be canceled pursuant

to Article 1 (commencing with Section 4985) of Chapter 4 of Part 9, as if it had been levied or charged erroneously, and, if paid, a refund thereof shall be made pursuant to Article 1 (commencing with Section 5096) of Chapter 5 of Part 9, as if it had been erroneously collected. The amount of tax, penalty or interest which is not canceled or refunded under this article with respect to property tax exemptions covered by this article and filed late may be paid in installments as provided in Chapter 3 (commencing with Section 4186) of Part 7.

History.—Stats. 1983, Ch. 119, in effect January 1, 1984, substituted "that" for "such" after "for" and deleted "to the board of supervisors" after "action" in the first sentence, and substituted "Upon notification by the assessor" for "If approved" at the beginning of the second sentence of the second paragraph; and deleted "of this division" after "Part 9" in the first sentence and deleted "of Division 1" after "Part 7" in the second sentence of the third paragraph.

273. **Veterans' exemption; cancellation of tax.** If a claimant for the veterans' exemption fails to file the affidavit required by Section 255 because he or she was in the military service of the United States and serving outside of the United States between the lien date and 5 o'clock p.m. on February 15 of any year, the veterans' exemption may be claimed pursuant to Section 252 or 253 without regard to the time limit specified in Section 255. If the veterans' exemption is claimed pursuant to the preceding sentence, any tax, or penalty or interest thereon for any fiscal year commencing during the calendar year in which the exemption is claimed, on property to the amount of one thousand dollars ($1,000) owned by the person to whom the veterans' exemption was available for that fiscal year, shall be canceled or refunded.

History.—Stats. 1997, Ch. 941 (SB 542), in effect January 1, 1998, substituted "affidavit required by" for "required affidavit pursuant to" after "file the", added "or she" after "he", deleted "continental limits of the" before "United States", substituted "February" for "April" after "5 o'clock p.m. on", added a period after "in Section 255" and deleted "and any tax" after "in Section 255" in the first sentence, and added "If the . . . any tax," to the balance of the former first sentence to create the second sentence, substituted "the" for "that" before "calendar", added "in which . . . claimed," after "calendar year", substituted "the" for "such" after "owned by", substituted "to whom" for "as to which" after "person", and substituted "that" for "such" after "available for" in the newly created second sentence.

273.5. **Veterans' exemption; partial cancellation of tax.** (a) If a claimant for the veterans' exemption for the 1976–77 fiscal year or any year thereafter fails to file the required affidavit with the assessor by 5 p.m. on February 15 of the calendar year in which the fiscal year begins, but files that claim on or before the following December 10, an exemption of the lesser of three thousand two hundred dollars ($3,200) or 80 percent of the full value of the property shall be granted by the assessor.

(b) On those claims filed pursuant to subdivision (a) after November 15, this exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10, and the delinquent penalty provided for in this division will attach if the tax amount due is not paid.

If this exemption is applied to the second installment and if both installments are paid on or before December 10, or if the reduction in taxes from this exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

History.—Added by Stats. 1976, Ch. 111, p. 172, in effect April 9, 1976. Secs. 2 and 3 thereof provided no payment by state to local governments because of this act. Stats. 1978, Ch. 1207, in effect January 1, 1979, operative January 1, 1981, substituted "three thousand two hundred dollars ($3,200) or 80 percent of the full" for "eight hundred dollars ($800) or 80 percent of the assessed" in the first paragraph. Stats. 1983, Ch. 1281, in effect September 30, 1983, substituted "the delinquent penalty provided for in this division" for "a 6-percent penalty" before "will attach" in the first paragraph of subdivision (b). Stats. 1994, Ch. 1222, in effect January 1, 1995, substituted "that" for "such" after "but files" and substituted "10" for "1" after "December" in subdivision (a) and substituted "those" for "such" after "On" in the first paragraph of subdivision (b). Stats. 1997, Ch. 941 (SB 542), in effect January 1, 1998, substituted "February" for "April" after "5 p.m. on" in the first sentence of subdivision (a).

275. **Homeowners' exemption; partial cancellation of tax.** (a) If a claimant for the homeowners' property tax exemption fails to file the required affidavit with the assessor by 5 p.m. on February 15 of the calendar year in which the fiscal year begins, but files that affidavit on or before the following December 10, an exemption of the lesser of five thousand six hundred dollars ($5,600) or 80 percent of the full value of the dwelling shall be granted by the assessor.

(b) On claims filed pursuant to subdivision (a) after November 15, this partial homeowners' exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10 and the delinquent penalty provided for in this division will attach if the tax amount due is not paid.

If this partial homeowners' exemption is applied to the second installment and if both installments are paid on or before December 10 or if the reduction in taxes from this partial exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

History.—Added by Stats. 1974, Ch. 60, p. 131, in effect March 12, 1974. Sec. 15 thereof provided no payment by state to local governments because of this act. Stats. 1974, Ch. 1107, p. 2368, in effect September 23, 1974, operative with respect to the 1974–75 fiscal year and thereafter, substituted "an exemption of the lesser of one thousand four hundred dollars ($1,400) or 80 percent of the assessed value of the dwellings" for "80 percent of the homeowners' exemption" in the first sentences of subdivisions (a) and (b); substituted subdivision (c) for the former subdivision (c); and substituted "taxpayer" for "county tax collector" in the first sentence of the last paragraph. Sec. 20 thereof provided no payment by state to local governments because of this act. Stats. 1978, Ch. 1207, in effect January 1, 1979, operative January 1, 1981, deleted former subdivisions (a) and (b), relettered subdivisions (c) as (a) and (d) as (b), deleted "for the 1975–76 fiscal year or any year thereafter" after the first "exemption", and substituted "three thousand two hundred dollars ($3,200)" for "one thousand four hundred dollars ($1,400)" and "full" for "assessed" before "value" in subdivision (a); deleted "(b) or (c)" after "(a)" and substituted "to" for "of" in subdivision (b). Stats. 1983, Ch. 1281, in effect September 30, 1983, substituted "the delinquent penalty provided for in this division" for "a 6-percent penalty" before "will attach" in the first paragraph of subdivision (b). Stats. 1992, Ch. 523, in effect January 1, 1993, deleted "o'clock" after "5", substituted "that affidavit" for "such claims" after "files", and substituted "10" for "1" after "December" in subdivision (a); and deleted "such" after "On" in the first paragraph of subdivision (b). Stats. 1997, Ch. 941 (SB 542), in effect January 1, 1998, substituted "February" for "April" after "5 p.m. on" in the first sentence of subdivision (a).

275.5. **Documented vessel; partial cancellation of tax.** If a person claiming classification of a vessel as a documented vessel eligible for assessment under Section 227 fails to file the affidavit required by Section 254 by 5 p.m. on February 15 of the calendar year in which the fiscal year begins, but files that affidavit on or before the following August 1, the assessment shall be reduced in a sum equal to 80 percent of the reduction that would have been allowed had the affidavit been timely filed.

History.—Added by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981. Stats. 1997, Ch. 941 (SB 542), in effect January 1, 1998, substituted "by" for "pursuant to" after "required", substituted "5 p.m." for "5:00 p.m." afer "Section 254 by", substituted "February" for "April" after "5 p.m. on", and substituted "that" for "such" after "but files" in the first sentence. Stats. 1998, Ch. 695 (SB 2235), in effect January 1, 1999, substituted "February 15" for "February 1" after "5 p.m. on" in the first sentence.

276. **Disabled veterans' exemption; partial cancellation of tax.** [Repealed by Stats. 1980, Ch. 172, effective December 31, 1981.]

276. **Disabled veterans' exemption; partial cancellation of tax.** [Repealed by Stats. 2000, Ch. 922 (AB 2567), in effect September 29, 2000.]

276. **Disabled veterans' exemption; partial cancellation of tax.** (a) Except as otherwise provided by subdivision (b), for property for which the disabled veterans' exemption described in Section 205.5 was available, but for which a timely claim was not filed, a partial exemption shall be applied in accordance with whichever of the following is applicable:

(1) Ninety percent of any tax, including any interest or penalty thereon, levied upon that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim shall be canceled or refunded, provided that an appropriate claim for exemption is filed after 5 p.m. on February 15 of the calendar year in which the fiscal year begins but on or before the following December 10.

(2) If an appropriate claim for exemption is filed after the time period specified in paragraph (1), 85 percent of that portion of any tax, including any interest or penalty thereon, that was levied upon that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim, shall be canceled or refunded. Cancellations made under this paragraph are subject to the provisions of Article 1 (commencing with Section 4895) of Chapter 4. Refunds issued under this paragraph are subject to the limitations periods on refunds as described in Article 1 (commencing with Section 5096) of Chapter 5.

(b) If a late filed claim for the sixty-thousand-dollar ($60,000) exemption is filed in conjunction with a timely filed claim for the forty-thousand-dollar ($40,000) exemption, or if a late filed claim for the one-hundred-fifty-thousand-dollar ($150,000) exemption is filed in conjunction with a timely filed claim for the one-hundred-thousand-dollar ($100,000) exemption, the amount of any exemption allowed under the late-filed claim under subdivision (a) shall be determined on the basis of that portion of the exemption amount, otherwise available under subdivision (a), that exceeds forty thousand dollars ($40,000) or one hundred thousand dollars ($100,000), as applicable.

(c) For those claims filed pursuant to subdivision (a) after November 15, the exemption under that subdivision may be applied to the second installment. If that exemption is so applied, the first installment is still delinquent on December 10, and is subject to delinquent penalties provided for in this division if that installment is not timely paid. A refund shall be made to the taxpayer upon a claim submitted to the auditor if the exemption is applied to the second installment and either of the following is true:

(1) Both installments are paid on or before December 10.

(2) The reduction in taxes resulting from the exemption exceeds the amount of taxes due on the second installment.

History.—Added by Stats. 2000, Ch. 922 (AB 2562), in effect September 29, 2000, and added by Stats. 2000, Ch. 1085 (SB 1362), in effect September 30, 2000, which added the second sentence to subdivision (a)(2), and restated, without substantive change, subdivision (b). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, deleted the former second sentence of subparagraph (2) of subdivision (a), which provided that "Cancellations or refunds made or issued under this paragraph are subject to the limitations periods on refunds as described in Section 5096.", and added the second and third sentences of subparagraph (2) of subdivision (a).

Note.—Section 5 of Stats. 2000, Ch. 922 (AB 2562), and Section 9 of Stats. 2000, Ch. 1085 (SB 1362), provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

276.1. **Disabled veterans' exemption; delayed disability rating.** For property for which the disabled veterans' exemption described in Section 205.5 would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA), there shall be canceled or refunded the amount of any taxes, including any interest and penalties thereon, subject to the provisions regarding cancellations in Article 1 (commencing with Section 4985) of Chapter 4 and the limitations periods on refunds as described in Article 1 (commencing with Section 5096) of Chapter 5, levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim, provided that the claimant meets both of the following conditions:

(a) The claimant had an application pending with the USDVA for a disability rating and subsequently received a rating that qualifies the claimant for the disabled veterans' exemption described in Section 205.5.

(b) The claimant subsequently files an appropriate claim for the disabled veterans' exemption described in Section 205.5 the later of 30 days of receipt of the disability rating from the USDVA or on or before the next following lien date.

History.—Added by Stats. 2000, Ch. 1085 (SB 1362), in effect September 30, 2000. Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, added "subject to the provisions . . . of Chapter 5," after "and penalties thereon," in the first sentence of the first paragraph and added "the later of 30 days . . . the USDVA or" after "in Section 205.5" in the first sentence of subdivision (b).

Note.—Section 9 of Stats. 2000, Ch. 1085 (SB 1362), provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

276.2. **Disabled veterans' exemption; property acquired after lien date.** If the disabled veterans' exemption as described in Section 205.5 would have been available for a property, but for that property being acquired by a person eligible for the exemption only after the lien date, or but for that property being owned by a person eligible for the exemption on the lien date but not residing on the property on that date, and an appropriate application for that exemption is filed on or before the lien date in the calendar year next following the calendar year in which the property was acquired or resided in as the principal place of residence, there shall be canceled or refunded the amount of any taxes, including any interest and penalties thereon, levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate application.

History.—Added by Stats. 2000, Ch. 922 (AB 2562), in effect September 29, 2000, and added by Stats. 2000, Ch. 1085 (SB 1362), in effect September 30, 2000. Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, added "or but for that . . . on that date," after "after the lien date," and added "or resided in as the principal place of residence" after "property was acquired" in the first sentence of the first paragraph.

Note.—Section 5 of Stats. 2000, Ch. 922 (AB 2562), and Section 9 of Stats. 2000, Ch. 1085 (SB 1362), provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

276.3. **Disabled veterans' exemption; property transferred after lien date.** (a) In the event that property receiving a disabled veterans' exemption as described in Section 205.5 is sold or otherwise transferred to a person who is not eligible for that exemption, the exemption shall cease to apply on the date of that sale or transfer.

(b) In the event that property receiving a disabled veterans' exemption as described in Section 205.5 is no longer used by a claimant as his or her principal place of residence, the exemption shall cease to apply on the date the claimant terminates his or her residency at that location.

(c) Termination of the exemption under this section shall result in an escape assessment of the property pursuant to Section 531.1.

History.—Added by Stats. 2000, Ch. 922 (AB 2562), in effect September 29, 2000, and added by Stats. 2000, Ch. 1085 (SB 1362), in effect September 30, 2000. Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, designated the former first paragraph as subdivision (a) and substituted "who" for "that" after "to a person" in the first sentence therein, and added subdivisions (b) and (c).

Note.—Section 5 of Stats. 2000, Ch. 922 (AB 2562), and Section 9 of Stats. 2000, Ch. 1085 (SB 1362), provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

277. **Disabled veterans' exemption; affidavit.** Any person claiming the disabled veterans' property tax exemption shall make a return of the property to the assessor, the same as property is listed for taxation, and shall accompany it by an affidavit, giving any information required by the board. Such information shall include, but shall not be limited to, the name of the person claiming the exemption, the address of the property, and a statement to the effect that the claimant owned and occupied the property as his principal place of residence on the lien date, or that he intends to own and occupy the property as his principal place of residence on the next succeeding lien date, and proof of disability as defined by Section 205.5.

History.—Added by Stats. 1975, Ch. 662, p. 1451, in effect September 10, 1975.

Note.—Section 7 of Stats. 1975, Ch. 662, provided that no appropriation shall be made pursuant to Section 3 of this act because there are minor savings as well as minor costs in this act which, in the aggregate, do not result in significant identifiable cost changes.

278. **Disabled veterans' exemption; assessor annual notice.** For the 1977–78 fiscal year and thereafter, county assessors shall each year mail a notice to all disabled veterans who received the disabled veterans' exemption in the immediately preceding year, except where such person has transferred title in the property since the immediately preceding lien date. The notice shall inform the taxpayer of the requirements that must be met in order to be eligible for the exemption, of the penalties if the taxpayer allows the exemption to continue when he is not eligible for the exemption, and of his duty to inform the assessor when he is no longer eligible for the exemption.

History.—Added by Stats. 1975, Ch. 662, p. 1451, in effect September 10, 1975. Stats. 1986, Ch. 608, effective January 1, 1987, deleted the first paragraph pertaining to requirements for the 1976–77 fiscal year.

Note.—Section 7 of Stats. 1975, Ch. 662, provided that no appropriation shall be made pursuant to Section 4 of this act because there are minor savings as well as minor costs in this act which, in the aggregate, do not result in significant identifiable cost changes.

279. **Disabled veterans' exemption; effective dates.** A claim for the disabled veterans' property tax exemption filed by the owner of a dwelling, as defined in Section 205.5, once granted, shall remain in effect until such time as title to the property changes, the owner does not occupy the home as his principal place of residence on the lien date, or the property is altered so that it is no longer a dwelling as defined in Section 205.5, or the veteran is no longer disabled as defined in Section 205.5.

The assessor of the county in which such a dwelling is situated shall verify the eligibility of each who is receiving a disabled veterans' exemption to continue to receive such an exemption in accordance with rules and regulations, which shall be issued by the board, to provide for a periodic audit and for the establishment of a control system for the disabled veterans' exemption claims.

History.—Added by Stats. 1975, Ch. 662, p. 1451, in effect September 10, 1975.

Note.—Section 7 of Stats. 1975, Ch. 662, provided that no appropriation shall be made pursuant to Section 5 of this act because there are minor savings as well as minor costs in this act which, in the aggregate, do not result in significant identifiable cost changes.

279.5. **Disabled veterans' exemption; ineligible property.** The taxpayer who has filed a claim for the disabled veterans' exemption, once granted, is responsible for notifying the assessor when the property is no longer eligible for the exemption.

Upon any indication that a disabled veterans' exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the disabled veterans' exemption. If the assessor determines that the property is no longer eligible for the exemption, he shall immediately cancel the exemption on the property.

If a disabled veterans' exemption has been incorrectly allowed, an escape assessment as allowed by Section 531.1 in the amount of the exemption with interest as provided in Section 506 shall be made, except where the exemption was allowed as the result of the assessor's error, in which case the amount of interest shall be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that such information was erroneous or incomplete or because the claimant failed to notify the assessor in a timely manner that the property was no longer eligible for the exemption, the penalty provided in Section 504 shall be added to the assessment. If the property subject to this paragraph has been transferred or conveyed to a bona fide purchaser for value during the period commencing with the lien date and ending July 1 of the fiscal year for which such exemption was incorrectly allowed, and the claimant is not the purchaser, any amount of penalty provided by Section 504 or any amount of interest provided by Section 506 imposed pursuant to the escape assessment due to such incorrect disabled veterans' exemption shall be forgiven. If the property subject to this paragraph has been transferred or conveyed to a bona fide purchaser for value after July 1 of the fiscal year for which the exemption was incorrectly allowed, and the claimant is not the purchaser, the escape assessment shall be levied in accordance with Section 531.2.

History.—Added by Stats. 1975, Ch. 662, p. 1452, in effect September 10, 1975. Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981, substituted "531.1" for "531.2", added "except where the exemption was allowed as the result of the assessor's error, in which case the amount of interest shall be forgiven." in the first sentence of, "in a timely manner" to the second sentence of, and added the last two sentences to the third paragraph.

Note.—Section 7 of Stats. 1975, Ch. 662, provided that no appropriation shall be made pursuant to Section 6 of this act because there are minor savings as well as minor costs in this act which, in the aggregate, do not result in significant identifiable cost changes.

Article 3. Audit of Veterans' Exemption Claims *

280. **Audit of exemptions.** Commencing on or after July 1, an audit of the exemptions granted pursuant to subdivision (o), (p), (q) or (r) of Section 3, Article XIII of the Constitution shall be conducted by the auditor. The audit shall cover such exemptions claimed for the current tax year as well as any prior tax years in respect to which escaped assessments would be timely pursuant to Section 532.

History.—Stats. 1967, p. 3336, in effect November 8, 1967, amended this section, as added by Ch. 148, by substituting section "532" for "531.5." Stats. 1974, Ch. 311, p. 603, in effect January 1, 1975, substituted "subdivision (o), (p), (q) or (r) of Section 3" for "Section 1¼" in the first sentence.

281. **Audit procedures.** The auditor shall determine the procedures and the extent of auditing required.

282. **Veteran or spouse to testify on written demand.** If the information is not made available through the assessor, the auditor may make written demand to the veteran or his spouse to appear and testify and to produce papers, including books, accounts, and documents germane to the claimed exemption, for the purpose of verifying entitlement to the exemption.

The auditor shall have access at any reasonable time to all records in the assessor's office, germane to the audit.

282.5. **Exemption denied on refusal to testify.** If a taxpayer refuses to comply with a written demand made pursuant to Section 282, the exemption shall be disallowed and, if an exemption has previously been allowed, an assessment pursuant to Section 531.1 shall be made.

History.—Added by Stats. 1967, p. 3336, in effect November 8, 1967. Stats. 1968, p. 2000, in effect November 13, 1968, substituted "531.1" for "531.5".

283. **Procedure on improper denial of exemption.** Should the audit prescribed by this article indicate that a claim of exemption pursuant to subdivision (o), (p), (q), or (r) of Section 3, Article XIII of the Constitution has been improperly denied, the assessor shall be notified. Upon receipt of such notice the assessor shall make a redetermination and if he finds the claimant eligible he shall notify the claimant in the manner provided in Section 1605 of such erroneous determination, effect an amendment of the

* Article 3 was added by Stats. 1967, p. 1213, in effect November 8, 1967.

assessment roll, and if the claimant has already paid the tax he shall have 30 days from receipt of such notice in which to file claim pursuant to Article 1 (commencing with Section 5096), Chapter 5, Part 9 of this division. The notice shall advise the time in which claim may be filed.

History.—Stats. 1974, Ch. 311, p. 603, in effect January 1, 1975, substituted "subdivision (o), (p), (q) or (r) of Section 3" for "Section 1¼" in the first sentence. Stats. 1976, Ch. 1079, p. 4883, in effect January 1, 1977, substituted "1605" for "1604.1" in the second sentence.

284. **Notice to assessor of improper exemption.** Should the audit prescribed by this article indicate that a veteran's exemption has been incorrectly allowed, the assessor shall be notified.

285. **Article to apply on the lien date following adoption by county board.** The provisions of this article shall not apply in any county unless a resolution is adopted by the board of supervisors declaring this article effective within the county.

Upon adoption of a resolution as so described, this article shall become operative in the county on the lien date next following the date of adoption. It shall remain effective within the county unless repealed by resolution of the board of supervisors.

History.—Stats. 1995, Ch. 499, in effect January 1, 1996, substituted "a resolution as so described," for "such a resolution" after "adoption of" and substituted "the lien date" for "March 1," after "county on" in the first sentence of the second paragraph.

286. **"Auditor" defined.** As used in this article ''auditor'' means the auditor, auditor-controller, or director of finance of a county.

Chapter 2. Legal Description of Lands for Assessment Purposes

321. **Land description.** Land shall be legally described for tax purposes pursuant to this chapter.

322. **Federal surveys.** If surveyed under the authority of the United States, land may be described by township, range, section, and fractional section, with its acreage.

History.—Stats. 1947, p. 2160, in effect September 19, 1947, added last paragraph. Stats. 1974, Ch. 311, p. 603, in effect January 1, 1975, deleted the former second and former last paragraphs relating to the description of parcels containing more than 640 acres.

323. **Spanish grants.** If held under Spanish grant, land may be described by the exterior boundaries of the grants, or by the name of the grants, and the divisions, subdivisions, and acreage claimed.

History.—Stats. 1941, p. 3111, in effect September 13, 1941, added reference to "the name of the grants."

324. **City lots.** City lots may be described by naming the city and giving the number of the lot and block, according to the system of numbering in the city.

325. **Official maps.** When a map has been adopted as an official map under Division 3 (commencing with Section 66499.50) of Title 7 of the Government Code, land may be described by numbers or letters as shown on the official map.

History.—Stats. 1943, p. 878, in effect August 4, 1943, inserted reference to Business and Professions Code in lieu of Political Code Section 3658a. Stats. 1978, Ch. 1112, in effect January 1, 1979, deleted the phrase "Chapter 3 of Part 2 of Division 4 of the Business and Professions Code," and replaced it with "Division 3 (commencing with Section 66499.50) of Title 7 of the Government Code,".

Reference to map.—When a map is contained on one page of the county records and a portion of its descriptive matter on the following page, it is sufficient to refer only to the page containing the map. *Mallman* v. *Kneeben,* 11 Cal.App.2d 484.

326. **Owner's maps.** Whenever a map, other than an official map, has been furnished by the owner, claimant, or user of land, and it contains sufficient information clearly to identify the land, and it is properly identified by and filed with the assessor or the board, the land may be described by reference to this map.

Estoppel of owner.—Where a map is furnished by the owner of property assessed, the owner is estopped from challenging the sufficiency of the description which he had given to the assessor, and is also estopped from questioning the fact that the property was assessed by reference to the numbers of the subdivisions upon the map instead of describing the lands by metes and bounds. *E. E. McCalla Co.* v. *Sleeper,* 105 Cal.App. 562.

327. **Assessor's maps.** Where any county or county officer possesses a complete, accurate map of any land in the county, or whenever such a complete, accurate map has been made in compliance with Sections 27556 to 27560, inclusive, of the Government Code, the assessor may number or letter the parcels in a manner approved by the board of supervisors. The assessor may renumber or reletter the parcels or prepare new map pages for any portion of such map to show combinations or divisions of parcels in a manner approved by the board of supervisors, so long as an inspection of such map will readily disclose precisely what land is covered by any particular parcel number or letter in the current or any prior fiscal year. This map or copy shall at all times be publicly displayed in the office of the assessor.

Land may be described by a reference to this map except that land shall not be described in any deed or conveyance by a reference to any such map unless such map has been filed for record in the office of the county recorder of the county in which such land is located.

All such maps in the possession of county assessors on August 27, 1937, and used for assessment purposes only, are deemed to have been numbered or lettered and approved properly.

History.—Stats. 1945, p. 2088, in effect September 15, 1945, added second clause, relative to maps complying with Section 4218 of the Political Code. Stats. 1947, p. 2161, in effect September 19, 1947, added second sentence to first paragraph. Stats. 1951, p. 2878, in effect September 22, 1951, added to second paragraph the exception requiring that map be filed for record. Stats. 1953, p. 1821, in effect September 9, 1953, substituted "Sections 27556 to 27560, inclusive, of the Government Code" for "Section 4218 of the Political Code."

327.1. **Subdivision maps; digital copies.** The board of supervisors of any county may enact, by a majority vote of its membership, an ordinance that requires any party that records a digital subdivision map with the county recorder to also file a duplicate digital copy of that map with the county assessor.

History.—Added by Stats. 2002, Ch. 214 (SB 2086), in effect January 1, 2003.

328. **Other descriptions.** Land may be described by metes and bounds, or other description sufficient to identify it, giving the locality and an estimate of the number of acres.

History.—Stats. 1974, Ch. 311, p. 603, in effect January 1, 1975, deleted ", not exceeding 640 acres in any parcel" after "acres".

Generally.—An assessment containing no description sufficient to identify the land is void. *Palomares Land Co.* v. *Los Angeles County,* 146 Cal. 530; *Sinai* v. *Mull,* 80 Cal.App.2d 277. But cf. *Blinn Lumber Co.* v. *Los Angeles County,* 216 Cal. 474, and *San Francisco* v. *San Mateo County,* 17 Cal.2d 814, to the effect that an assessee cannot complain of an insufficient description when he has not been misled thereby.

It is permissible in aid of a description in an assessment to show that it is in fact sufficient to identify the land. When, in the light of the knowledge which it must be presumed is possessed by the property owners of the community in which the property is situated, the description is sufficient to apprise the property owner of the exact property assessed to him, it is sufficient for all assessment purposes. The use of abbreviations is permissible if thereby the property may be easily known. *Baird* v. *Monroe,* 150 Cal. 560.

An owner is estopped from challenging the sufficiency of a description furnished by him. *Smith* v. *Addiego,* 54 Cal.App.2d 230.

The inclusion of the phrase "(Ex of Mining Right)" in a tax collector's deed does not make the description uncertain or ambiguous for it is clear that it means with the exception of the mining rights. *Alspach* v. *Landrum,* 82 Cal.App.2d 901.

Maps.—A description may be in accordance with an unrecorded map. *Smith* v. *Addiego,* 54 Cal.App.2d 230.

Water Rights.—A separate assessment of riparian rights is void if there is no legal description of the riparian lands. *Spring Valley Water Co.* v. *Alameda County,* 24 Cal.App. 278.

Town lots.—An assessment which designates the lot and block number but fails to designate the city or town and is unaided by a reference to any map is void. *Wright v. Fox,* 150 Cal. 680. Similarly, an assessment is void which fails to describe the property as being within the corporate limits of a city. *Tasker* v. *Nieto,* 108 Cal.App. 135, 149.

An arbitrary number given to a certain lot for the convenience of the assessor and appearing in the description on the assessment roll does not vitiate the assessment. *Jacoby* v. *Wolff,* 198 Cal. 667.

An assessment describing a lot as follows, "In Los Angeles County, Glendale, lot 22, blk. 4," is sufficient. *Furrey* v. *Lautz,* 162 Cal. 397.

A description contained in an assessment as 'one-half of Lot 12, Block 132," is void for uncertainty in that it cannot be ascertained therefrom what half of the lot is attempted to be described. No presumption of fact may be indulged in as to the size, location or extent of a lot, nor is parol evidence admissible to ascertain what particular tract or lot the assessor had in mind when making the assessment. *Stewart* v. *Atkinson,* 96 Cal.App. 50.

Reference to maps.—A description by lot and tract without reference to a map is prima facie invalid. *Campbell* v. *Shafer,* 162 Cal. 206; *Morton* v. *Sloan,* 96 Cal.App. 747. The court will not presume that there is a map sufficient to identify the property assessed. *Fox* v. *Townsend,* 152 Cal. 51. Evidence may be received, however, to show that there is only one map in existence which includes the lot in question, and such map may be received in evidence to identify the land. *Best* v. *Wohlford,* 144 Cal. 733.

A description "as per map of Carmel-by-the-Sea, Lot 10, Block 12" is not void for uncertainty because there are two maps of Carmel-by-the-Sea in the recorder's office, one entitled "Carmel-by-the-Sea" and the other without name, if both maps show the identical property. It is only where there is a difference between two maps so far as the assessed property is concerned that the question as to which map was intended can arise. *Stewart* v. *Atkinson,* 96 Cal.App. 50.

It has become a matter of common knowledge that block books constitute assessment maps in use by all the public offices in matters of taxation of real estate. *Schainman* v. *All Persons,* 96 Cal.App. 753.

For maps in aid of description, see also, *Reclamation Dist. No. 673* v. *Diepenbrock,* 168 Cal. 577; *Fitzsimons* v. *Atherton,* 162 Cal. 630; *Furrey* v. *Loutz,* 162 Cal. 397; *Campbell* v. *Shafer,* 162 Cal. 206; *Baird* v. *Monroe,* 150 Cal. 560; *Miller* v. *Williams,* 135 Cal. 183; *Lummer* v. *Unruh,* 25 Cal.App. 97.

Chapter 3. Assessment Generally

Article 1. General Requirements

401. **Ratio of assessed to full value.** Every assessor shall assess all property subject to general property taxation at its full value.

History.—Prior to 1966 this section provided "Except as provided in this part, all taxable property shall be assessed at its full cash value". A succession of amendments from 1966 through 1971 provided that a ratio of assessed value to full cash value of from 20% to 25% be employed and in successive years no less closer to 25% than in the immediate prior year, and that ultimately 25% be employed beginning with the lien date for 1971–72. See: Stats. 1966, p. 658 (First Extra Session), Stats. 1967, p. 942, Stats. 1968, p. 10 (First Extra Session), and Stats. 1971, p. 350. Present wording was

enacted by Stats. 1972, p. 2191, in effect March 7, 1973. Stats. 1974, Ch. 311, p. 603, in effect January 1, 1975, substituted "full value" for "full cash value". Stats. 1978, Ch. 1207, in effect January 1, 1979, operative January 1, 1981, deleted "25 percent of" after "taxation at".

Constitutionality.—Article XI, Section 12, of the Constitution does not prohibit the assessment of taxable property by a county at a uniform fraction or ratio of its full cash or market value. *Michels* v. *Watson,* 229 Cal.App.2d 404.

Fractional assessments as required by the 1966 amendment to this section are not violative of California Constitution, article XI, section 12, which requires property to be assessed "at its full cash value." This phrase is a term of art and authorizes assessments at a uniform fraction of full cash value. *Sacramento County* v. *Hickman,* 66 Cal.2d 841.

"Full cash value", as used in the section, requiring that, with certain exceptions, property be taxed at its "full cash value," means market value. *Union Oil Co.* v. *Ventura County,* 41 Cal.App.3d 432; *Freeport-McMoran Resource Partners* v. *Lake County,* 12 Cal.App.4th 634.

Construction.—This statutory duty is mandatory. *Domenghini* v. *San Luis Obispo County,* 40 Cal.App.3d 689; *Simms* v. *Pope,* 218 Cal.App.3d 472. The duties of the assessor are established by statute (Section 401 et seq.). As a county officer, the assessor is subject to supervision by the board of supervisors of the county, but the county may not be compelled to perform the duties of the office. And as the office of the assessor is elective, the supervisory authority of the board of supervisors is limited to ensuring that the assessor faithfully performs the duties of the office, and it does not permit the board to control the manner in which the duties are performed. Thus, the county could not be ordered to grant an exemption from property tax since that duty, when it exists, is one the assessor must perform. *Connelly* v. *Orange County*, 1 Cal.4th 1105.

Declaratory relief.—Declaratory relief is unavailable to restrict future assessment practices where there is no showing that the assessor will fail to follow the law and it is conjectural whether a justiciable controversy will arise. *Burke* v. *City and County of San Francisco,* 258 Cal.App.2d 32.

Riparian rights.—Riparian rights, being "rights and privileges appertaining to" land [see Section 104], their inclusion in the assessment of the land is contemplated. Thus, if there is to be a separate assessment of riparian lands to one person and of the riparian rights to another, the exclusion of these rights in the assessment of the former must clearly appear. *Spring Valley Water Co.* v. *Alameda County,* 24 Cal.App. 278, 281. See also *Spring Valley Water Co.* v. *Alameda County,* 88 Cal.App. 157, 163.

Leaseholds.—In determining the value of a leasehold the following items should be considered: (1) Duration of lease; (2) excess of annual benefits derived from the lease over burdens; (3) amortization, during lease, of capital employed; (4) amortization of improvements which revert to the lessor; (5) taxes and other fixed charges. The combined net earnings of the lease over the entire term is its ultimate value, and its present value as of any date upon any assumed rate of interest can be computed from that basis, and the result is the approximate present value of the leasehold. *Blinn Lumber Co.* v. *Los Angeles County,* 216 Cal. 474, noted in 21 Calif. L. Rev. 596. *Contra, De Luz Homes, Inc.* v. *San Diego County,* 45 Cal.2d 546, holding that in valuing a leasehold by the capitalization of income method it is improper, in computing the anticipated net earnings to be capitalized, to deduct from anticipated gross income the lessee's charges for rent and amortization of his investment, and that statements in the *Blinn* case requiring the assessing authorities to deduct such charges are disapproved.

The proper method of computing the value of a leasehold of an exempt housing project at a permanent military installation is to deduct from annual anticipated gross income the operating and maintenance expenses and the amount required by the lease to be deposited to a replacement reserve, and to capitalize the difference for the remaining years of the lease at a rate which will allow for risk, interest, and taxes. *De Luz Homes, Inc.* v. *San Diego County,* 45 Cal.2d 546; *Fairfield Gardens, Inc.* v. *Solano County,* 45 Cal.2d 575; *Victor Valley Housing Corp.* v. *San Bernardino County,* 45 Cal.2d 580; *El Toro Development Co., Inc.* v. *Orange County,* 45 Cal.2d 586.

Under the capitalization of income method of valuation, it is improper when computing the full cash value to deduct from the anticipated gross receipts, the amount of rent reserved. A leasehold is not less valuable because it has not been paid for in advance, and to draw a distinction between rent paid and rent to be paid confuses the equity the lessee has in the leasehold with its value. Taxation of property at its value without regard to the owner's equity therein is an established principle of ad valorem taxation. *The Texas Co.* v. *Los Angeles County,* 52 Cal.2d 55.

Amortization and rental provisions which leave the lessee without equity in a garage operated by a nonprofit corporation under a lease from a city are not to be considered in valuation of the leasehold interest in the garage for tax purposes. *Stamps* v. *Board of Supervisors,* 233 Cal.App.2d 256.

In assessing the value of a lessee's possessory interests in tax-exempt land and improvements, it is proper to assess the values of the land and improvements separately. If there is insufficient history of income and expenses and an appraisal based on capitalization thereof would be unreliable, it is proper to use the "imputed income method" if the land and improvements are to be used for enterprise activity. Where a lessee leases property for a certain period and is given the option to extend the lease for an additional like period, the lease term is the total of both periods. Where leased improvements will reach the end of their economic life before the lease terminates, it is proper to value them by the "reproduction cost less depreciation" method. *Riverside County* v. *Palm-Ramon Development Co.,* 63 Cal.2d 534.

Liability of assessors.—An assessment of property at less than its actual value, if made with the purpose of enabling the one assessed to evade taxation, is not a refusal or neglect to perform an official duty, but a "willful and corrupt misconduct in office," for which the assessor might be accused by the grand jury under Section 758 of the Penal Code; but if made in the ordinary exercise of his official duty, without any corrupt or illegal motive, is of a judicial nature, for which he is not amenable to the penal laws of the state. *Siebe* v. *Superior Court,* 114 Cal. 551.

A complaint against an assessor alleging that he " willfully and against law" assessed plaintiff's property at too large a sum does not state a cause of action. Such an allegation, without an averment that he acted maliciously and with an intent to wrong or injure the owner of the property, does not negate the presumption that he simply erred in judgment, for which he is not civilly liable, the only remedy being by application to the Board of Equalization. *Ballerino* v. *Mason,* 83 Cal. 447.

Work in progress.—Aircraft in the process of being manufactured may be assessed at the book value computed by the corporate owner, despite the fact that such book value contains costs which are directly attributable to the development of the production technique on previously sold aircraft, and not to the aircraft actually being assessed. *Lockheed Aircraft Corp.* v. *Los Angeles County,* 207 Cal.App.2d 119.

Assessment of motion picture negatives.—"Market value" for assessment purposes is the value of property when put to beneficial use; it is not merely whatever residual value may remain should the property be reduced to its constituent elements. In the event the beneficial use of the property would not pass to a willing buyer on an open market, the assessor must treat the property as having no actual market for valuation purposes and use such pertinent factors as replacement costs and income analysis for determining valuation. *Michael Todd Co.* v. *Los Angeles County,* 57 Cal.2d 684.

Cyclical reassessment.—Where not possible to assess all parcels of real property in one year, a program of assessment of equal numbers of parcels yearly over a three-year period is valid. *Lord* v. *Marin County,* 214 Cal.App.2d 25.

Valuation of property on annexation.—When tax-exempt property is included within unhabitated territory proposed to be annexed, its value, for protest purposes, is determined by the county assessor in the same amount he would assess such property if it were not tax exempt, regardless of whether the owner of the tax-exempt property is a protestant. *Guerrieri* v. *City of Fontana,* 232 Cal.App.2d 417.

Note.—For additional cases relating to value, see annotations to Section 110 of the code and to Article XIII, Section 1, of the Constitution.

401.3. **Assessment according to value on lien date.** The assessor shall assess all property subject to general property taxation on the lien date as provided in Articles XIII and XIII A of the Constitution and any legislative authorization thereunder.

History.—Added by Stats. 1970, p. 390, in effect November 23, 1970. Stats. 1986, Ch. 608, effective January 1, 1987, substituted "on the lien date as provided in Articles XIII and XIII A of the Constitution and any legislative authorization thereunder" for "according to its value on the lien date" after "taxation".

401.4. **Valuation of owner-occupied single-family dwelling.** When valuing an owner-occupied single-family dwelling and the land on which it is situated that may be required for the convenient occupation and use of such dwelling, if such dwelling is on land which is zoned exclusively for single-family home use or which is zoned for agricultural use where single-family homes are permitted, the assessor shall not value the land at any value greater than that which would reflect the use of the land as a site for a single-family dwelling.

As used in this section, owner-occupied single-family dwelling means any single-family dwelling occupied by an owner thereof as his principal place of residence on the lien date.

History.—Added by Stats. 1972, p. 2960, in effect December 26, 1972, operative on the lien date in 1973. Stats. 1973, Ch. 208, p. 563, in effect July 11, 1973, eliminated two paragraphs stating temporary nature of the section and intention to enact a more detailed program for valuation of single-family dwellings under Section 2.5 of Article XIII of the State Constitution.

Note.—Section 62 of Stats. 1973, Ch. 208, p. 569, provided no payment by state to local governments because of this act.

401.5. **Board shall issue data to assessors.** The board shall issue to assessors data relating to costs of property, or, with respect to commercial and industrial property, shall, after a public hearing, review and approve commercially available data, and shall issue to assessors other information as in the judgment of the board will promote uniformity in appraisal practices and in assessed values throughout the state. An assessor shall adapt data

received pursuant to this section to local conditions and may consider that data together with other factors as required by law in the assessment of property for tax purposes.

History.—Added by Stats. 1947, p. 2301, in effect September 19, 1947. Stats. 1996, Ch. 1087, in effect January 1, 1997, substituted ", or, with respect to commercial and industrial property, shall, after a public hearing, review and approve commercially available data, and shall issue to assessors" for "and such" after "costs of property", and substituted "state" for "State" after "throughout the" in the first sentence; and substituted "An assessor shall adapt data received pursuant to this section to local conditions and may consider that data" for "These data shall be adapted to local conditions and may be considered by the assessors" in the second sentence.

401.6. **Entrepreneurial profit.** (a) In any case in which the cost approach method is used to value special use property for purposes of taxation, the assessor shall not add a component for entrepreneurial profit unless he or she has market-derived evidence that entrepreneurial profit exists and has not been fully offset by physical deterioration or economic obsolescence.

(b) For purposes of this section:

(1) ''Entrepreneurial profit'' means either of the following:

(A) The amount of a developer would expect to recover with respect to a property in excess of the amount of the developer's costs incurred with respect to that property.

(B) The difference between the fair market value of a property and the total costs incurred with respect to that property.

(2) ''Total costs'' means both direct costs of construction, including, but not limited to, the costs of land, building materials, and labor, and indirect costs of construction, including, but not limited to, the costs of construction capital and permit fees.

(3) ''Special use property'' means a limited market property with a unique physical design, special construction materials, or a layout that restricts its utility to the use for which it was built.

History.—Added by Stats. 1995, Ch. 399, in effect January 1, 1996.

401.8. **Intercounty pipeline rights-of-way.** (a) Notwithstanding any other provision of law, commencing with the 1995–96 fiscal year, the county assessor shall determine the property tax assessed value in the county attributable to assessable intercounty pipeline rights-of-way on the basis of a single, countywide parcel per taxpayer by combining the assessed values of each separate right-of-way interest, or segment thereof, of the taxpayer in the county. However, the assessor shall maintain a separate base year value as determined pursuant to Section 110.1 for each separate right-of-way interest, or segment thereof.

(b) Any assessment appeal that is authorized to be filed in Sections 401.10 to 401.12, inclusive, with respect to an intercounty pipeline right-of-way interest, or segment thereof, for which the assessor did not assign a value in the manner specified in subdivision (a) of Section 401.10, shall be filed by the taxpayer upon one or more specified intercounty pipeline right-of-way interests, or segments thereof, as described in subdivision (a), and in no event shall be filed with respect to a taxpayer's entire, undivided intercounty pipeline right-of-way. The assessor shall maintain for five calendar years

those records for each assessment year that identify each intercounty pipeline right-of-way interest, or segment thereof, located within his or her county, and shall provide the information in those records with respect to a given intercounty pipeline right-of-way interest, or segment thereof, to the taxpayer upon request.

History.—Added by Stats. 1995, Ch. 32, in effect June 28, 1995. Stats. 1996, Ch. 801, in effect September 24, 1996, added subdivision letter designation (a) before "Notwithstanding any other", and added subdivision (b).

Note.—Sec. 1 of Stats. 1996, Ch. 801 provides that the Legislature finds and declares that there are possible conflicts between the existing Section 401.8 of the Revenue and Taxation Code, as proposed to be added by Assembly Bill 1286. Therefore, it is the intent of the Legislature in enacting Section 2 of this act to amend Section 401.8 of the Revenue and Taxation Code to eliminate any possible conflict between that section and Sections 401.10 to 401.12, inclusive, of the Revenue and Taxation Code, as added by Chapter 76 of the Statutes of 1996.

401.9. **Land use restriction contracts; 1997 recordations.** (a) Contracts entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code) and recorded between January 1, 1997, and February 28, 1997, inclusive, shall be deemed timely for purposes of inclusion on the January 1, 1997, property tax roll.

(b) Land zoned as ''timberland'' pursuant to Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code between January 1, 1997, and February 28, 1997, inclusive, shall be deemed timely for purposes of inclusion on the January 1, 1997, property tax roll.

History.— Added by Stats. 1996, Ch. 1087, in effect January 1, 1997.

401.10. **Intercounty pipelines; full cash value.** [Repealed by Stats. 1997, Ch. 17 (SB 947), in effect January 1, 1998.]

Effective until January 1, 2011

401.10. **Intercounty pipelines; full cash value.** (a) Notwithstanding any other provision of law relating to the determination of the values upon which property taxes are based, values for each tax year from the 1984–85 tax year to the 2010–11 tax year, inclusive, for intercounty pipeline rights-of-way on publicly or privately owned property, including those rights-of-way that are the subject of a change in ownership, new construction, or any other reappraisable event during the period from March 1, 1975, to June 30, 2011, inclusive, shall be rebuttably presumed to be at full cash value for that year, if all of the following conditions are met:

(1) (A) The full cash value is determined to equal a 1975–76 base year value, annually adjusted for inflation in accordance with subdivision (b) of Section 2 of Article XIII A of the California Constitution, and the 1975–76 base year value was determined in accordance with the following schedule:

(i) Twenty thousand dollars ($20,000) per mile for a high density property.

(ii) Twelve thousand dollars ($12,000) per mile for a transitional density property.

(iii) Nine thousand dollars ($9,000) per mile for a low density property.

(B) For purposes of this section, the density classifications described in subparagraph (A) are defined as follows:

(i) ''High density'' means Category 1 (densely urban) as established by the State Board of Equalization.

(ii) ''Transitional density'' means Category 2 (urban) as established by the State Board of Equalization.

(iii) ''Low density'' means Category 3 (valley-agricultural), Category 4 (grazing), and Category 5 (mountain and desert) as established by the State Board of Equalization.

(2) The full cash value is determined utilizing the same property density classifications that were assigned to the property by the State Board of Equalization for the 1984–85 tax year or, if the density classifications were not so assigned to the property for the 1984–85 tax year, the density classifications that were first assigned to the property by the board for a subsequent tax year.

(3) (A) If a taxpayer owns multiple pipelines in the same right-of-way, an additional 50 percent of the value attributed to the right-of-way for the presence of the first pipeline, as determined under paragraphs (1) and (2), shall be added for the presence of each additional pipeline up to a maximum of two additional pipelines. For any particular taxpayer, the total valuation for a multiple pipeline right-of-way shall not exceed 200 percent of the value determined for the right-of-way of the first pipeline in the right-of-way in accordance with paragraphs (1) and (2).

(B) If the State Board of Equalization has determined that an intercounty pipeline, located within a multiple pipeline right-of-way previously valued in accordance with subparagraph (A), has been abandoned as a result of physical removal or blockage, the assessed value of the right-of-way attributable to the last pipeline enrolled in accordance with subparagraph (A) shall be reduced by not less that 75 percent of that increase in assessed value that resulted from the application of subparagraph (A).

(4) If all pipelines of a taxpayer located within the same pipeline right-of-way, previously valued in accordance with this section, are determined by the State Board of Equalization to have been abandoned as the result of physical removal or blockage, the assessed value of that right-of-way to that taxpayer shall be determined to be no more than 25 percent of the assessed value otherwise determined for the right-of-way for a single pipeline of that taxpayer pursuant to paragraphs (1) and (2).

(b) If the assessor assigns values for any tax year from the 1984–85 tax year to the 2010–11 tax year, inclusive, in accordance with the methodology specified in subdivision (a), the taxpayer's right to assert any challenge to the right to assess that property, whether in an administrative or judicial proceeding, shall be deemed to have been raised and resolved for that tax year and the values determined in accordance with that methodology shall be rebuttably presumed to be correct. If the assessor assigns values for any tax year from the 1984–85 tax year to the 2010–11 tax year, inclusive, in

accordance with the methodology specified in subdivision (a), any pending taxpayer lawsuit that challenges the right to assess the property shall be dismissed by the taxpayer with prejudice as it applies to intercounty pipeline rights-of-way.

(c) Notwithstanding any change in ownership, new construction or decline in value occurring after March 1, 1975, if the assessor assigns values for rights-of-way for any tax year from the 1984–85 tax year to the 2010–11 tax year, inclusive, in accordance with the methodology specified in subdivision (a), the taxpayer may not challenge the right to assess that property and the values determined in accordance with that methodology shall be rebuttably presumed to be correct for that property for that tax year.

(d) Notwithstanding any change in ownership, new construction, or decline in value occurring after March 1, 1975, if the assessor does not assign values for rights-of-way for any tax year from the 1984–85 tax year to the 2010–11 tax year, inclusive, at the 1975–76 base year values specified in subdivision (a), any assessed value that is determined on the basis of valuation standards that differ, in whole or in part, from those valuation standards set forth in subdivision (a) shall not benefit from any presumption of correctness, and the taxpayer may challenge the right to assess that property or the values for that property for that tax year. As used herein, a challenge to the right to assess shall include any assessment appeal, claim for refund, or lawsuit asserting any right, remedy, or cause of action relating to or arising from, but not limited to, the following or similar contentions:

(1) That the value of the right-of-way is included in the value of the underlying fee or railroad right-of-way.

(2) That assessment of the value of the right-of-way to the owner of the pipeline would result in double assessment.

(3) That the value of the right-of-way may not be assessed to the owner of the pipeline separately from the assessment of the value of the underlying fee.

(e) Notwithstanding any other provision of law, during a four-year period commencing on the effective date of this section, the assessor may issue an escape assessment in accordance with the specific valuation standards set forth in subdivision (a) for the following taxpayers and tax years:

(1) Any intercounty pipeline right-of-way taxpayer who was a plaintiff in Southern Pacific Pipe Lines, Inc. v. State Board of Equalization (1993) 14 Cal.App.4th 42, for the tax years 1984–85 to 1996–97, inclusive.

(2) Any intercounty pipeline right-of-way taxpayer who was not a plaintiff in Southern Pacific Pipe Lines, Inc. v. State Board of Equalization (1993) 14 Cal.App.4th 42, for the tax years 1989–90 to 1996–97, inclusive.

(f) Any escape assessment levied under subdivision (e) shall not be subject to penalties or interest under the provisions of Section 532. If payment of any taxes due under this section is made within 45 days of demand by the tax collector for payment, the county shall not impose any late payment penalty or interest. Taxes not paid within 45 days of demand by the

tax collector shall become delinquent at that time, and the delinquent penalty, redemption penalty, or other collection provisions of this code shall thereafter apply.

(g) For purposes of this section, ''intercounty pipeline right-of-way'' means, except as otherwise provided in this subdivision, any interest in publicly or privately owned real property through which or over which an intercounty pipeline is placed. However, ''intercounty pipeline right-of-way'' does not include any parcel or facility that the State Board of Equalization originally separately assessed using a valuation method other than the multiplication of pipeline length within a subject property by a unit value determined in accordance with the density category of that subject property.

(h) This section shall remain in effect only until January 1, 2011, and, as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

History.—Added by Stats. 1996, Ch. 801, in effect September 24, 1996. Stats. 1997, Ch. 17 (SB 947), in effect January 1, 1998, renumbered former section 410.10 to 401.10, added "from" after "period" in the first sentence of subdivision (a), deleted paragraph (1) of subdivision (h) which stated "(1) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 401.10 of the Revenue and Taxation Code, as added by Chapter 76 of the Statutes of 1996.", and deleted paragraph designation (2) before "This section" in subdivision (h). Stats. 2000, Ch. 607 (AB 2612), in effect January 1, 2001, substituted "2010-11" for "2000-01" after "to the", added "from" after "the period", and substituted "2011" for "2001" after "June 30," in the first sentence of subdivision (a); substituted "2010-11" for "2000-01" after "to the" in the first sentence, and substituted "2010-11" for "2000-01" after "to the" in the second sentence of subdivision (b); substituted "2010-11" for "2000-01" after "to the" in the first sentence of subdivision (c); substituted "2010-11" for "2000-01" after "to the" in the first sentence of subdivision (d); and substituted "2011" for "2001" after "January 1," twice in the first sentence of subdivision (h).

401.11. **Intercounty pipelines; refunds and billings.** [Repealed by Stats. 1997, Ch. 17 (SB 947), in effect January 1, 2000.]

401.12. **Intercounty pipelines; settlement agreement controls.** Sections 401.10 and 401.11 do not abrogate, rescind, preclude, or otherwise affect any separate settlement agreement entered into prior to the effective date of those sections between a county and an intercounty pipeline right-of-way taxpayer concerning the subject matter of Sections 401.10 and 401.11. In the event of a conflict between any settlement agreement and the provisions of Sections 401.10 and 401.11, the settlement agreement shall control.

History.— Added by Stats. 1996, Ch. 76, in effect June 28, 1996.

401.13. **Intracounty pipelines; consolidated assessment.** Notwithstanding any other provision of law, on or after January 1, 1998, the assessor shall determine the assessed value of pipelines and related rights-of-way that are located wholly within the county on the basis of a single, countywide parcel per taxpayer, and, to that end, shall combine the assessed value of each component or segment of those pipelines or rights-of-way. However, the assessor shall maintain a separate base year value for each of these components or segments.

History.—Added by Stats. 1997, Ch. 941 (SB 542), in effect January 1, 1998.

401.15. **Certificated aircraft.** (a) Notwithstanding any other provision of law, for any county that makes available the credits provided for in Section 5096.3, the full cash values of certificated aircraft for fiscal years to the 1997–98 fiscal year, inclusive, are presumed to be those values enrolled

by the county assessor or, in the case of timely escape assessments upon certificated aircraft issued on or after April 1, 1998, pursuant to Sections 531, 531.3, and 531.4, the values enrolled upon those escape assessments, provided that the escape assessment is made in accordance with the methodology in subdivision (b). For escape assessments for fiscal years to the 1997–98 fiscal year, inclusive, the assessor shall use the methodology and minimum and market values set by the California Assessors' Association for the applicable fiscal year in lieu of the methodology set forth in subparagraph (C) or (D) of paragraph (1) of subdivision (b). The assessor is not required to revise or change existing enrolled assessments that are not subject to escape assessment to reflect the methodology in this section. Nothing in this section precludes audit adjustments and offsets as set forth in Section 469 or the correction of reporting errors raised by an airline. Nothing in this section affects any presumption of correctness concerning allocation of aircraft values.

(b) (1) For the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive, and including escape assessments levied on or after April 1, 1998, for any fiscal year to the 2002–03 fiscal year, inclusive, except as otherwise provided in subdivision (a), certificated aircraft shall be presumed to be valued at full market value if all of the following conditions are met:

(A) Except as provided in subparagraph (D), value is derived using original cost. The original cost shall be the greater of the following:

(i) Taxpayer's cost for that individual aircraft reported in accordance with generally accepted accounting principles, so long as that produces net acquisition cost, and to the extent not included in the taxpayer's cost, transportation costs and capitalized interest and the cost of any capital addition or modification made before a transaction described in clause (ii).

(ii) The cost established in a sale/leaseback or assignment of purchase rights transaction for that individual aircraft that transfers the benefits and burdens of ownership to the lessor for United States federal income tax purposes.

If the original cost for leased aircraft cannot be determined from information reasonably available to the taxpayer, original cost may be determined by reference to the ''average new prices'' column of the Airliner Price Guide for that model, series, and year of manufacture of aircraft. If information is not available in the ''average new prices'' column for that model, series, and year, the original cost may be determined using the best indicator of original cost plus all conversion costs incurred for that aircraft. In the event of a merger, bankruptcy, or change in accounting methods by the reporting airline, there shall be a rebuttable presumption that the cost of the individual aircraft and the acquisition date reported by the acquired company, if available, or the cost reported prior to the change in accounting method, are the original cost and the applicable acquisition date.

(B) Original cost, plus the cost of any capital additions or modifications not otherwise included in the original cost, shall be adjusted from the date of the acquisition of the aircraft to the lien date using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner or, in the case of a sale/leaseback or assignment of purchase rights transaction, as described in this section, the current operator with a minimum combined factor of 25 percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to subparagraph (C), in which case the minimum value may be used. If original cost is determined by reference to the Airliner Price Guide ''average new prices'' column, the adjustments required by this paragraph shall be made by setting the acquisition date of the aircraft to be the date of the aircraft's manufacture.

(C) For certificated aircraft of a model and series that has been in revenue service for eight or more years, the minimum value shall not exceed the average of the used aircraft prices shown in columns other than the ''average new prices'' column for used aircraft of the oldest aircraft for that model and series in the Airliner Price Guide most recently published as of the lien date. Minimum values shall not be utilized for certificated aircraft of a model and series that has been in revenue service for less than eight years.

(D) For out-of-production aircraft that were recommended to be valued by a market approach for 1998 by the California Assessors' Association, assessments will be based at the lower of the following:

(i) The values established by the association for the 1998 lien date.

(ii) The average of the used aircraft prices shown in the columns other than the ''average new prices'' column for used aircraft of the five oldest years for the aircraft model and series or that lesser time for which data is available in the Airliner Price Guide.

(2) Notwithstanding paragraph (1), in computing assessed value, the assessor may allow for extraordinary obsolescence if supported by market evidence and the taxpayer may challenge the assessment for failure to do so. To constitute market evidence of extraordinary obsolescence and to permit an assessment appeal, the evidence must show that the functional and/or economic obsolescence is in excess of 10 percent of the value for the aircraft model and series otherwise established pursuant to subparagraph (B), (C), or (D) of paragraph (1).

(3) For purposes of paragraph (1), if the Airliner Price Guide ceases to be published or the format significantly changes, a guide or adjustment agreed to by the airlines and the taxing counties shall be substituted.

(c) (1) For the 2003–04 fiscal year, certificated aircraft shall be presumed to be valued at full market value if all of the following conditions are met:

(A) Except as provided in subparagraph (D), value is derived using original cost. The original cost shall be the greater of the following:

(i) Taxpayer's cost for that individual aircraft reported in accordance with generally accepted accounting principles, so long as that produces net

acquisition cost, and to the extent not included in the taxpayer's cost, transportation costs and capitalized interest and the cost of any capital addition or modification made before a transaction described in clause (ii).

(ii) Taxpayer's cost as established pursuant to this subdivision plus one-half of the incremental difference between taxpayer's cost and the cost established in a sale/leaseback or assignment of purchase rights transaction for individual aircraft that transfers the benefits and burdens of ownership to the lessor for United States federal income tax purposes.

If the original cost for leased aircraft cannot be determined from information reasonably available to the taxpayer, original cost may be determined by reference to the ''average new prices'' column of the Airliner Price Guide for that model, series, and year of manufacture of aircraft. If information is not available in the ''average new prices'' column for that model, series, and year, the original cost may be determined using the best indicator of original cost plus all conversion costs incurred for that aircraft. In the event of a merger, bankruptcy, or change in accounting methods by the reporting airline, there shall be a rebuttable presumption that the cost of the individual aircraft and the acquisition date reported by the acquired company if available, or the cost reported prior to the change in accounting method, are the original cost and the applicable acquisition date.

(B) Original cost, plus the cost of any capital additions or modifications not otherwise included in original cost, shall be adjusted from the date of the acquisition of the aircraft to the lien date using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner or, in the case of a sale/leaseback or assignment of purchase rights transaction, as described in this section, the current operator with a minimum combined factor of 25 percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to subparagraph (C), in which case the minimum value may be used. If original cost is determined by reference to the Airliner Price Guide ''average new prices'' column, the adjustments required by this paragraph shall be made by setting the acquisition date of the aircraft to be the date of the aircraft's manufacture.

(C) For certificated aircraft of a model and series that has been in revenue service for eight or more years, the minimum value shall not exceed the average of the used aircraft prices shown in columns other than the ''average new prices'' column for used aircraft of the oldest aircraft for that model and series in the Airliner Price Guide most recently published as of the lien date. Minimum values shall not be utilized for certificated aircraft of a model and series that has been in revenue service for less than eight years.

(D) For out-of-production aircraft that were recommended to be valued by a market approach for 1998 by the California Assessors' Association, their assessments shall be based at the lower of the following:

(i) The values established by the association for the 1998 lien date.

(ii) The average of the used aircraft prices shown in the columns other than the ‘‘average new prices’’ column for used aircraft of the five oldest years for the aircraft model and series or that lesser time for which data is available in the Airliner Price Guide.

(2) Notwithstanding paragraph (1), in computing assessed value, the assessor may allow for extraordinary obsolescence if supported by market evidence and the taxpayer may challenge the assessment for failure to do so. To constitute market evidence of extraordinary obsolescence and to permit an assessment appeal, the evidence must show that the functional and or economic obsolescence is in excess of 10 percent of the value for the aircraft model and series otherwise established pursuant to subparagraph (B), (C), or (D) of paragraph (1).

(3) For purposes of paragraph (1), if the Airliner Price Guide ceases to be published or the format significantly changes, a guide or adjustment agreed to by the airlines and the taxing counties shall be substituted.

(d) To calculate the values prescribed in subdivisions (b) and (c), the taxpayer shall, to the extent that information is reasonably available to the taxpayer, furnish the county assessor with an annual property statement that includes the aircraft original costs as defined in subparagraph (A) of paragraph (1) of subdivision (b) or (c). If an air carrier that has this information reasonably available to it fails to report original cost and additions, as required by Sections 441 and 442, an assessor may make an appropriate assessment pursuant to Section 501.

History.—Added by Stats. 1998, Ch. 86 (AB 1807), in effect June 30, 1998. Stats. 1999, Ch. 83 (SB 966), in effect January 1, 2000, added “that” after “assessments, provided” in the first sentence of subdivision (a); added a comma after “acquired company” and substituted “method, are” for “method is” after “in accounting” in the third sentence of the second paragraph and substituted “association” for “Association” after “by the” in clause (i) of subparagraph (D) of subsection (i), and substituted “and/or” for “and or” after “the functional” in the second sentence of subsection (2) of subdivision (b); added a comma after “acquired company” and substituted “method, are” for “method is” after “in accounting” in the third sentence of the second paragraph and substituted “association” for “Association” after “by the” in clause (i) of subparagraph (D) of subsection (1) of subdivision (c); and substituted “To” for “In order to” before “calculate” in the first sentence, and substituted “If” for “In the event” before “an air carrier”, deleted “Revenue and Taxation Code” after “required by”, deleted “in that case” after “an assessor may”, and deleted “Revenue and Taxation Code” after “pursuant to” in the second sentence of subdivision (d).

Note.—Section 1 of Stats. 1998, Ch. 86 (AB 1807) provided that (a) The Legislature finds and declares all of the following:

(1) Two of the most difficult and contentious property tax assessment issues in recent years have concerned the assessment of certificated aircraft and airline possessory interests, other than interests stated in a written agreement for terminal, cargo, hangar, automobile parking lots, storage and maintenance facilities and other buildings and the land thereunder leased in whole or in part by an airline.

(2) These issues have given rise to litigation and appeals challenging assessments involving hundreds of millions of dollars of property tax revenues.

(3) The uncertainty created by pending litigation and appeals over the assessment of airline property and possessory interests in publicly owned airports is disruptive to both airline industry tax planning and local government and school finance.

(b) It is the intent of the Legislature in enacting this act to facilitate resolution of the disputes over the assessment of certificated aircraft by codifying recommendations produced by a county and airline industry working group, that do all of the following:

(1) Establish valuation methodology for certificated aircraft.

(2) Clearly establish a presumption of correctness if county assessors follow the assessment methodology set out in this measure and in Assembly Bill 2318.

(3) Dispose of certain outstanding litigation and appeals over aircraft valuation.

(4) Mitigate the financial impact of this statutory change on local governments and schools by establishing a method by which the issuance of any prior year refunds to litigating airlines would be treated as credits against future tax payments.

Section 6 thereof provided that this act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

This measure is necessary to provide guidance and clarification that is essential to the fair and efficient taxation of airline industry property and possessory interests in publicly owned airports in the current year, and to clarify the status of prior-year property tax payments that have funded essential services provided by local governments and schools.

401.16. **Percent good factors.** If, for purposes of property taxation, the county assessor utilizes the reproduction or replacement cost approach to value to determine the value of tangible personal property or trade fixtures, both of the following apply:

(a) (1) If the county assessor depreciates this property using percent good factors published by the State Board of Equalization that provide separate factors for property that is first acquired new and property that is first acquired used, the assessor may not average the published factors to apply these factors to both classes of new and used property.

(2) Notwithstanding paragraph (1), if information reported by a taxpayer does not indicate whether this property was first acquired by the taxpayer new or used, the assessor may average the published factors.

(b) If the county assessor depreciates this property using percent good factors that include a minimum percent good, the minimum percent good factors shall be determined in a manner that is supportable.

History.—Added by Stats. 2002, Ch. 299 (AB 2714), in effect January 1, 2003.

402. **Cultivated and uncultivated land.** Cultivated and uncultivated land of the same quality and similarly situated shall be assessed at the same value.

402.1. **Land use restrictions.** (a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. These restrictions shall include, but are not limited to, all of the following:

(1) Zoning.

(2) Recorded contracts with governmental agencies other than those provided in Sections 422 and 422.5.

(3) Permit authority of, and permits issued by, governmental agencies exercising land use powers concurrently with local governments, including the California Coastal Commission and regional coastal commissions, the San Francisco Bay Conservation and Development Commission, and the Tahoe Regional Planning Agency.

(4) Development controls of a local government in accordance with any local coastal program certified pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.

(5) Development controls of a local government in accordance with a local protection program, or any component thereof, certified pursuant to Division 19 (commencing with Section 29000) of the Public Resources Code.

(6) Environmental constraints applied to the use of land pursuant to provisions of statutes.

(7) Hazardous waste land use restriction pursuant to Section 25240 of the Health and Safety Code.

(8) A recorded conservation, trail, or scenic easement, as described in Section 815.1 of the Civil Code, that is granted in favor of a public agency, or in favor of a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, or open-space condition or use.

(b) There is a rebuttable presumption that restrictions will not be removed or substantially modified in the predictable future and that they will substantially equate the value of the land to the value attributable to the legally permissible use or uses.

(c) Grounds for rebutting the presumption may include, but are not necessarily limited to, the past history of like use restrictions in the jurisdiction in question and the similarity of sales prices for restricted and unrestricted land. The possible expiration of a restriction at a time certain shall not be conclusive evidence of the future removal or modification of the restriction unless there is no opportunity or likelihood of the continuation or renewal of the restriction, or unless a necessary party to the restriction has indicated an intent to permit its expiration at that time.

(d) In assessing land with respect to which the presumption is unrebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a demonstrably minimal effect upon value.

(e) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions.

(f) For the purposes of this section the following definitions apply:

(1) ''Comparable lands'' are lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.

(2) ''Representative sales information'' is information from sales of a sufficient number of comparable lands to give an accurate indication of the full cash value of the land being valued.

(g) It is hereby declared that the purpose and intent of the Legislature in enacting this section is to provide for a method of determining whether a sufficient amount of representative sales information is available for land under use restriction in order to ensure the accurate assessment of that land. It is also hereby declared that the further purpose and intent of the Legislature in enacting this section and Section 1630 is to avoid an assessment policy which, in the absence of special circumstances, considers uses for land that

legally are not available to the owner and not contemplated by government, and that these sections are necessary to implement the public policy of encouraging and maintaining effective land use planning. Nothing in this statute shall be construed as requiring the assessment of any land at a value less than as required by Section 401 or as prohibiting the use of representative comparable sales information on land under similar restrictions when this information is available.

History.—Added by Stats. 1966, p. 658 (First Extra Session), in effect October 6, 1966. Stats. 1974, Ch. 857, p. 1823, in effect January 1, 1975, substituted the second sentence of the first paragraph for the former second sentence; established the former third sentence of the first paragraph as the second paragraph; added the sixth paragraph; and deleted "local" after "contemplated by" in the second sentence of the seventh paragraph. Stats. 1976, Ch. 1330, p. 6009, in effect January 1, 1977, added subsection (d) and relettered the former subsection (d) as subsection (e) in the second sentence of the first paragraph. Stats. 1977, Ch. 1155, in effect January 1, 1978 capitalized "Coastal" and "Commission" and removed the "s" from "Commissions", and added "and regional coastal commissions" in subdivision (c). Also added subdivision (e) and substituted "constraints" for "contraints" in subdivision (f). Substituted "with respect to which" for "where" in the fourth paragraph and added "which are" after "comparable land" in the fifth paragraph. Stats. 1989, Ch. 906, in effect January 1, 1990, added subdivision letters (a), (b), (c), (d), (e), (f) and (g); substituted "these" for "such" and added "all of the following" after "are not limited to", in the second sentence of, and substituted paragraph numerals (1), (2), (3), (4), (5) and (6) for former letters (a), (b), (c), (d), (e) and (f) in subdivision (a); substituted "Zoning." for "zoning;" in paragraph (1) of subdivision (a); substituted "Recorded" for "recorded " and replaced semi-colon with a period in paragraph (2) of subdivision (a); substituted "Permit" for "permit" and replaced semicolon with a period in paragraph (3) of subdivision (a); substituted "Development" for "development" and replaced semi-colon with a period in paragraphs (4) and (5) of subdivision (a); deleted "and" before "(6)" in paragraph (5) of subdivision (a); substituted "Environmental" for "environmental" in paragraph (6) of subdivision (a); added paragraph (7) to subdivision (a); added "the following definitions apply" after "section" in subdivision (f); renumbered former paragraphs (a) and (b) as (1) and (2) in subdivision (f); deleted "of the Revenue and Taxation Code" after "Section 1630", deleted "of this code" after "Section 401", and substituted "this" for "such" in subdivision (g). Stats. 1993, Ch. 1002, in effect January 1, 1994, added a comma after "limited to" in the second sentence of subdivision (a); substituted "(1)", "(2)", "(3)", "(4)", "(5)", "(6)" and "(7)" for "1.", "2.", "3.", "4.", "5.", "6.", and "7." in, and added paragraph (8) to, subdivision (a); substituted "lands that" for "land which" in subdivision (e), substituted "that" for "which" in paragraph (1) of subdivision (f); and substituted "that" for "such" after "assessment of" in the first sentence and substituted "that" for "which" after "land" in the second sentence of subdivision (g). Stats. 2002, Ch. 616 (SB 1864), in effect January 1, 2003, substituted "These" for "Those" before "restrictions shall include" and substituted "limited to," for "limited, to" after "but are not" in the first sentence of subdivision (a), and substituted "Sections 422 and 422.5" for "Section 422" after "those provided in" in the first sentence of paragraph (2) therein.

Note.—Section 2 of Stats. 1974, Ch. 857, p. 1825, provided that it is the intent of the Legislature in amending the section to clarify the status of recently enacted legislation with respect to the section and not to make a substantive change therein.

Construction.—The effect of the rebuttable presumption is to place upon the assessor the burden of proving the impermanence of the zoning restriction. To overcome the presumption the assessor must show by a preponderance of the evidence that the restriction will be lifted in the predictable future. *Meyers* v. *Alameda County,* 70 Cal.App.3d 799. For property zoned for agricultural use, in order to rebut the presumption, the assessor was required to show that the agricultural use restriction on the land would be lifted in the predictable future, and such did not occur where the property owner had asked the city to designate the property as agricultural preserve under the Williamson Act, he manifested no intent to have his property rezoned from agricultural use, and his property was entitled to agricultural preserve status. *Borel* v. *Contra Costa County,* 220 Cal.App.3d 521. In determining the fair market value of property, an assessor is only required to consider governmentally imposed land restrictions. The legislative purpose of this section is to allow an assessor to consider restrictions necessary to implement the public policy of encouraging and maintaining effective land use planning. Thus, the assessor properly refused to consider deed restrictions placed on a parcel of land when determining the value of the property where such restrictions were for the benefit of the seller, involved no public policy regarding land use planning, and in no way benefited the public. *Carlson* v. *Assessment Appeals Board No. 1,* 167 Cal.App.3d 1004. Rate protection provisions in a cable television franchise agreement are enforceable restrictions within the meaning of this section, which expressly states that its listed restrictions are not exclusive. *CAT Partnership* v. *Santa Cruz County,* 63 Cal.App.4th 1071.

The existence of a specific governmental enforcement order is not a prerequisite to a taxpayer's showing that land is subject to restrictions imposed by government that affect its value. Restrictions can be ''imposed by government'' by any of the methods mentioned in this section. The intent of the section is to consider what limitations apply to the property, whether or not such limitations produced immediate enforcement. Thus, regardless of whether the performance of cleanup projects ultimately benefits the surface landowner, annual environmental remediation costs incurred by the holder of an oil and gas lease in the property must be considered as necessary operation expenses because they are required by law. *Dominguez Energy, L.P.* v. *Los Angeles County,* 56 Cal.App.4th 839.

402.2. **Receipt of notice; reassessment.** [Repealed by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981.]

402.3. **Restrictive covenants or restrictions.** An assessor shall consider any restrictive covenant, easement, restriction, or servitude adopted

pursuant to Section 25202.5, 25222.1, or 25355.5 of the Health and Safety Code or any restriction, easement, covenant, or servitude imposed pursuant to Section 25230 of the Health and Safety Code as an enforceable restriction, easement, covenant, or servitude subject to Section 402.1 and shall appropriately reassess any land, the use of which has been so restricted, at the lien date following the adoption or imposition of the covenant, easement, servitude, or restriction.

History.—Added by Stats. 1980, Ch. 1161, in effect January 1, 1981. Stats. 1989, Ch. 906, in effect January 1, 1990, added ", easement, restriction, or servitude" before "adopted", added ", 25222.1, or 25355.5 of the Health and Safety Code" after "Section 25205.5", added ", easement, covenant, or servitude" after "restriction", substituted "25230" for "25229", deleted "the provisions of" before "Section 402.1", deleted "of this code" after "Section 402.1", and added ", easement, servitude," after "covenant".

Note.—Section 9 of Stats. 1980, Ch. 1161, provided no payment by state to local governments because of this act, however, a local agency or school district may pursue other remedies to obtain reimbursement.

402.5. **Comparable sales.** When valuing property by comparison with sales of other properties, in order to be considered comparable, the sales shall be sufficiently near in time to the valuation date, and the properties sold shall be located sufficiently near the property being valued, and shall be sufficiently alike in respect to character, size, situation, usability, zoning or other legal restriction as to use unless rebutted pursuant to Section 402.1, to make it clear that the properties sold and the properties being valued are comparable in value and that the cash equivalent price realized for the properties sold may fairly be considered as shedding light on the value of the property being valued. ''Near in time to the valuation date'' does not include any sale more than 90 days after the lien date.

History.—Added by Stats. 1969, p. 1988, in effect November 10, 1969. Stats. 1972, p. 2014, in effect August 18, 1972, operative on the lien date in 1973, added " 'near in time to the lien date' does not include any sale more than 90 days after the lien date." Stats. 1980, Ch. 1081, in effect September 26, 1980, substituted "valuation" for "lien" before "date" in both the first and second sentences.

Generally.—Where all comparative sales available were considered, use of six such sales which complied with the criteria prescribed by the section was deemed sufficient to controvert a claim that a decision of county board of equalization was not supported by substantial evidence. *Westlake Farms, Inc.* v. *Kings County,* 39 Cal.App.3d 179.

Comparability can never be treated in absolute terms. Even relatively poor data can fairly be considered as shedding light on the value if it is the best or only data available. *Midstate Theatres, Inc.* v. *Stanislaus County,* 55 Cal.App.3d 864.

The purported use of this method of valuation is invalid when based upon sales of other properties which are not subject to the same limitation on use as the property in question. *Jones* v. *Los Angeles County,* 114 Cal.App.3d 999.

Accuracy.—Market data on recent sales of the property to be assessed and comparable properties, when such data is available, is the most accurate way of arriving at the assessed value of the property. *Dennis* v. *Santa Clara County,* 215 Cal.App.3d 1019; *Los Angeles County* v. *McDonnell Douglas Corp.,* 219 Cal.App.3d 715.

Usability.—A classification based on topography and present use without additional evidence as to the highest and most profitable use will not support a finding of comparability. *Dressler* v. *Alpine County,* 64 Cal.App.3d 557.

Near in time.—The provision for exclusion of any sale more than 90 days after the lien date is restricted to fair market value assessments and does not apply to use of the capitalization of income method and evidence of income earned more than 90 days after the lien date. *Bank of America* v. *Fresno County,* 127 Cal.App.3d 295.

402.9. **Subsidy payments.** In valuing property for persons of low and moderate income that is financed under Section 236 or Section 515 of the federal National Housing Act, since federal restrictions accompanying these programs substantially affect actual income and expenses of the property owner, the assessor shall not consider as income any interest subsidy payments made to a lender on that property by the federal government.

History.—Added by Stats. 1978, Ch. 737, in effect January 1, 1979. Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000, substituted "that" for ", which" after "moderate income", added "or Section 515" after "Section 236", substituted "these" for "such" after "restrictions accompanying", and substituted "that" for "such" after "a lender on" in the first sentence.

403. **Unpatented land.** Land sold by the State for which no patent has been issued shall be assessed like other land, but the owner is entitled to a deduction from the assessed valuation of the amount due the State as principal on the purchase price.

404. **Assessing agency.** All taxable property, except State assessed property, shall be assessed by the assessing agency of the taxing agency where the property is situated.

Situs.—See Constitution, Article XIII, Section 14 and annotations to former Article XIII, Section 10 thereunder.

405. **Assessee.** (a) Annually, the assessor shall assess all the taxable property in his county, except state-assessed property, to the persons owning, claiming, possessing, or controlling it on the lien date.

The assessor may assess the property on the secured roll to the person owning, claiming, possessing or controlling it for the ensuing fiscal year.

(b) The assessor may assess all taxable property in his county on the unsecured roll jointly to both the lessee and lessor of such property.

(c) Notices of assessment and tax bills relating to jointly assessed property on the unsecured roll shall be mailed to both the lessee and the lessor at their latest addresses known to the assessor.

History.—Stats. 1941, p. 3111, in effect September 13, 1941, revised wording. Stats. 1966, p. 659 (First Extra Session), in effect October 6, 1966, first operative for the 1967–68 assessment year, substituted "on the lien date" for "at 12 o'clock meridian of the first Monday in March" and deleted "The assessor shall ascertain such property between the first Mondays in March and July." Stats. 1973, Ch. 786, p. 1405, in effect January 1, 1974, added the subdivision letters and subdivisions (b) and (c). Stats. 1981, Ch. 261, in effect January 1, 1982, added the second paragraph to subdivision (a).

Construction.—This section specifically permits assessment of all the taxable property to the persons owning, claiming, possessing, or controlling it on the lien date and does not limit the assessment to the fee owner. Thus, while the uniform practice of assessors in California has been to make but one assessment of land covering the value of all interests and estates in that land, such practice is only a general rule, and the section clearly authorizes assessors to assess otherwise. *Cox Cable San Diego, Inc.* v. *San Diego County,* 185 Cal.App.3d 368.

Assessment date.—This section and Section 8 of Article XIII of the Constitution fix the taxable status of property as of the first Monday in March, and property which is not taxable on that day is not taxable for the year. *Dodge* v. *Nevada National Bank,* 109 F. 726. See also *East Bay Municipal Utility District* v. *Garrison,* 191 Cal. 680, 692.

Duty of payment.—Primarily the duty of paying taxes rests upon the person who holds the legal title. *Three G Distillery Corp.* v. *Los Angeles County,* 46 Cal.App.2d 498. Cf, *Purkieser* v. *Fogler,* 11 Cal.App.2d 144, holding that a vendee of real estate in possession under an executory contract of sale making no provision for the payment of taxes may not compel the vendor to pay the taxes.

Assessment to claimant, possessor, etc.—Property in a warehouse is not assessable to the warehouseman as the person in possession. In such a case, if the owner is not known, the property should be assessed to unknown owners and the tax collected by seizure and sale. *Weyse* v. *Crawford,* 85 Cal. 196. An assessment to the legal owner of an automobile registered in the name of another person is likewise invalid. *San Diego County* v. *Davis,* 1 Cal.2d 145. An assessment of personal property to a consignee for sale (*S. & G. Gump Co.* v. *San Francisco,* 18 Cal.2d 129), conditional vendee (*Houser etc. Mfg. Co.* v. *Hargrove,* 129 Cal. 90), surviving partner in possession of the property (*Thompson* v. *Board of Supervisors,* 13 Cal.App.2d 134), lessee in possession (*RCA Photophone Inc.* v. *Huffman,* 5 Cal.App.2d 401), or escrow holder (*Title Guaranty, etc., Co.* v. *Los Angeles County,* 3 Cal.App. 619) is valid.

Minor components of installed burglar alarm systems were taxable to the installer, even though they were fixtures permanently attached to subscribers' premises, where the installer owned or controlled them and also owned the major components of the systems. And since the major and minor components of the systems were not severable for ad valorem property taxation purposes, the values of the entire systems were taxable to the installer as real property under subdivision (a). *Morse Signal Devices* v. *Los Angeles County,* 161 Cal.App.3d 570.

An assessment of the value of the possessory right in leased land, owned by the state to the sublessee in possession is valid. *Tilden* v. *Orange County,* 89 Cal.App.2d 586.

Component parts of a steam boiler plant purchased by a contractor from manufacturers in accordance with its contract to construct the plant for a city and delivered directly to the city-owned jobsite were not assessable to the contractor notwithstanding that on the assessment date the parts were not attached to the boiler structure, where, under a reasonable construction of the contract beneficial possession and complete control was in the city and the contractor had no interest in the parts other than the obligation to assemble them. *C. C. Moore & Co.* v. *Quinn,* 149 Cal.App.2d 666.

Canning machinery and equipment under agreement to sell was assessed to the seller where the risk or loss remained in the seller until closing and where the consideration had not passed and certain conditions had not been performed as

of the lien date. *Francis H. Leggett & Co.* v. *Los Angeles County,* 235 Cal.App.2d 752. Vessel under agreement to sell was assessed to the seller where entire consideration had not passed and certain conditions had not been performed as of the lien date. *In Re Western States Wire Corp.,* 490 F.2d 1065.

No provision is made for declaring or assessing a possessory interest in tax-exempt personal property. *General Dynamics Corp.* v. *Los Angeles County,* 51 Cal.2d 59.

An assessment of improvements to the lessee in possession and control was not erroneous even though the land was assessed to the landlord and he owned the improvements. *Valley Fair Fashions, Inc.* v. *Valley Fair,* 245 Cal.App.2d 614.

Lessee-bank owning trade fixtures attached to landlord's realty was proper assessee. *Ventura County* v. *Channel Islands State Bank,* 251 Cal.App.2d 240.

A permanently affixed interior household connection to a cable television system installed by the system owner who neither owns nor controls the connection constitutes a fixture and is assessable to the owner of the realty rather than to the system owner. *Tele-Vue Systems, Inc.* v. *Contra Costa County,* 25 Cal.App.3d 340.

Extent of assessor's duty.—In ascertaining the taxable property in the county the assessor's duties are limited to those prescribed in the succeeding article, and he is not required to search the records for the purpose of discovering property that has escaped assessment. Consequently, the supervisors may properly engage a private individual to perform such work. *Skidmore* v. *Amador County,* 7 Cal.2d 37.

Where the board of supervisors entered into a contract to have a third party perform a valuation of assessable property within the county, which the assessor is legally bound to do, and where the valuation is not to assist the board of supervisors but to afford the assessor additional compensation during his term in office other than that provided by law, the contract is void. *Tax Factors, Inc.* v. *Marin County,* 20 Cal.App.2d 79. See also *Forward* v. *San Diego County,* 189 Cal. 704.

A county assessor must give school districts information of the value of tax-assessed property within districts by May 15, as required by Education Code Section 20811, although information regarding property assessed by the State Board of Equalization is unavailable by reason of the board not being required to complete its work thereon until the first Monday of August and although taxpayers may file property statements upon which property assessments are partially based between the first Monday of March and the last Monday in May. *Board of Education* v. *Watson,* 63 Cal.2d 829.

Assessor's refusal to assess contiguous parcels separately when so assessing similar nearby property is within discretion of assessor and does not deprive taxpayer of equal protection of the law. *Millbrook Farm* v. *Watson,* 264 Cal.App.2d 512.

Extent of assessor's rights.—The county assessor is a tax official of the state within the meaning of section 19286 of this code and may inspect income tax returns to assist him in assessing taxpayer's property. *Lyons* v. *Estes,* 6 Cal.App.3d 979.

Description.—A failure to change the description or valuation of a lot after a conveyance of a portion thereof justifies a holding that the assessment is invalid. *Mallman* v. *Kneeben,* 11 Cal.App.2d 484.

Gas and oil rights.—While gas and oil rights held in separate ownership may be separately assessed, the inclusion of their value in the assessment to the owners of the balance of the fee does not render the assessment invalid. When there is no separate assessment to such rights and the assessments of the balance of the fee show no reduction because of such separate ownership, it must be presumed that their value has been included in the assessments of the balance of the fee, and a tax deed based on such an assessment includes the gas and oil rights. *McCracken* v. *Hummel,* 43 Cal.App.2d 302.

Easements.—The law does not require an appurtenant easement to be separately assessed. *McMorris* v. *Pagano,* 63 Cal.App.2d 446.

Aircraft.—An airplane which was purchased by an interstate air carrier for the exclusive purpose of adding it to its fleet of aircraft flying in interstate commerce, was delivered to and accepted by the air carrier in this state, and on the first Monday in March had not made a flight in interstate commerce but was engaged in "shakedown and crew familiarization" flights preparatory thereto, was properly assessable as part of the air carrier's fleet on an apportionment basis and not as a separate item of property. *Slick Airways, Inc.* v. *Los Angeles County,* 140 Cal.App.2d 311.

An airplane under a levy of attachment by the county sheriff before and on the tax lien date was properly assessable to the owner of the airplane and not to the sheriff. *United States Overseas Airlines* v. *Alameda County,* 235 Cal.App.2d 348.

405.1. **Tax deeded or publicly owned property.** [Repealed by Stats. 1985, Ch. 316, effective January 1, 1986.]

405.5. **Periodic appraisal.** The assessor shall periodically appraise all property not subject to the provisions of Article XIII A of the Constitution to substantiate the judgment of its full cash value or, when provided for by law, its restricted value for uniform assessment purposes.

History.—Added by Stats. 1966, p. 659 (First Extra Session), in effect October 6, 1966. Stats. 1972, p. 1526, in effect March 7, 1973, operative on the lien date in 1973, substituted "its full cash value or, when provided for by law, its restricted value" for "full cash value" in the first sentence. Stats. 1980, Ch. 1081, in effect September 26, 1980, added "not subject to the provisions of Article XIII A of the Constitution" after "property" and substituted "the" for "his" before "judgment".

405.6. **Orderly, sequential, cyclical appraisal or reappraisal.** [Repealed by Stats. 1980, Ch. 1081, in effect September 26, 1980.]

406. **Tax-sold property.** [Repealed by Stats. 1988, Ch. 830, in effect January 1, 1989.]

407. **Statistical statement.** Annually, on the second Monday in July, the assessor shall transmit a statistical statement to the board, supplying any statistical information which the board may require, and shall supply from time to time any other information required by the board.

History.—Stats. 1979, Ch. 242, in effect July 10, 1979, added second sentence. Stats. 1986, Ch. 608, effective January 1, 1987, deleted the former second sentence pertaining to requirements for the 1979–80 fiscal year.

408. **Assessor's records.** (a) Except as otherwise provided in subdivisions (b), (c), (d), and (e) any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county.

The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, employees of the Controller for property tax postponement purposes, probate referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Department of Financial Institutions, the Department of Transportation, the Department of General Services, the State Board of Equalization, the State Lands Commission, the State Department of Social Services, the Department of Child Support Services, the Department of Water Resources, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Financial Institutions, the Department of Transportation, the Department of General Services, the State Lands Commission, or the Department of Water Resources pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(c) Upon the request of the tax collector, the assessor shall disclose and provide to the tax collector information used in the preparation of that portion of the unsecured roll for which the taxes thereon are delinquent. The tax collector shall certify to the assessor that he or she needs the information requested for the enforcement of the tax lien in collecting those delinquent

taxes. Information requested by the tax collector may include social security numbers, and the assessor shall recover from the tax collector his or her actual and reasonable costs for providing the information. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent tax lien and collect those costs subject to subdivision (e) of Section 2922.

(d) The assessor shall, upon the request of an assessee or his or her designated representative, permit the assessee or representative to inspect or copy any market data in the assessor's possession. For purposes of this subdivision, ''market data'' means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise. However, for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

(e) (1) With respect to information, documents, and records, other than market data as defined in subdivision (d), the assessor shall, upon request of an assessee of property, or his or her designated representative, permit the assessee or representative to inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property, and any penalties and interest thereon.

(2) After enrolling an assessment, the assessor shall respond to a written request for information supporting the assessment, including, but not limited to, any appraisal and other data requested by the assessee.

(3) Except as provided in Section 408.1, an assessee, or his or her designated representative, shall not be permitted to inspect or copy information and records that also relate to the property or business affairs of another, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of the assessment of his or her property.

(f) (1) Permission for the inspection or copying requested pursuant to subdivision (d) or (e) shall be granted as soon as reasonably possible to the assessee or his or her designated representative.

(2) If the assessee, or his or her designated representative, requests the assessor to make copies of any of the requested records, the assessee shall reimburse the assessor for the reasonable costs incurred in reproducing and providing the copies.

(3) If the assessor fails to permit the inspection or copying of materials or information as requested pursuant to subdivision (d) or (e) and the assessor introduces any requested materials or information at any assessment appeals

board hearing, the assessee or his or her representative may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of continuance.

History.—Added by Stats. 1941, p. 2051, in effect June 6, 1941. Stats. 1961, p. 2809, in effect September 15, 1961, added "(a) Except as otherwise provided in subdivision (b)" and subdivision (b). Stats 1966, p. 659 (First Extra Session), in effect October 6, 1966, added the reference to subdivision (c) to subdivision (a), added the last clause referring to court order to subdivision (b), and added subdivision (c). Stats. 1969, p. 2481, in effect November 10, 1969, applicable to equalization proceedings for the 1970–71 assessment year and thereafter, added "provide any market data in his possession to an assessee" and the references to designated representative in subdivision (b), and added subdivision (d). Stats. 1970, p. 1141, in effect November 23, 1970, substituted "may provide any market data in his possession to the assessor of any county and shall provide such data" for "shall provide any market data in his possession" in the first sentence of subdivision (b). Stats. 1971, p. 2163, in effect March 4, 1972, revised subdivision (b) to allow the assessor to provide "appraisal data" to the assessor of any county and revised the requirement for the assessee or his designated representative to obtain a court order to situations involving information and records "other than market data which also relate to the property or business affairs of another". Stats. 1974, Ch. 1107, p. 2369, in effect September 23, 1974, added ", and homeowners' exemption claims," after "assessor" in the first sentence, and added the second and third sentences of subdivision (a); and added "the State Controller," after "Government Code" in subdivision (c). Stats. 1976, Ch. 671, p. 1658, in effect January 1, 1977, added "Except as provided in Section 408.1," at the beginning of the third sentence of subdivision (b). Stats. 1978, Ch. 1388, in effect September 30, 1978, added "inheritance tax referees" to subdivision (c). Stats. 1984, Ch. 1641, in effect January 1, 1985, added "or hers" after "his" throughout the section; and added "staff appraisers of the Department of Transportation" after "referees," in the first sentence, and added the second sentence to subdivision (c). Stats. 1985, Ch. 200, effective January 1, 1986, added a comma after "(c)" in subdivision (a), and deleted "State" before "Controller", added "employees of the Franchise Tax Board for tax administration purposes only," after "referees", added a comma after "Equalization", and substituted "the" for "such" after "examine" in the first sentence of subdivision (c). Stats. 1986, Ch. 1457, effective January 1, 1987, substituted "probate" for "inheritance tax" after "Controller," and added "and the Department of General Services" after "Department of Transportation" in the first sentence, and added "or the Department of General Services" after "Department of Transportation" in the second sentence of subdivision (c). Stats. 1987, Ch. 1162, effective September 26, 1987, added "employees of the Controller for property tax postponement purposes" after "Controller" in the first sentence of subdivision (c), and added "the Department of Savings and Loan," after "appraisers of" and added "," after "Transportation" in the first and second sentences thereof. Stats. 1992, Ch. 523, in effect January 1, 1993, substituted the comma for "and" after "(b)", and added "and (d)" after "(c)", in the first sentence of subdivision (a); added subdivision (d); and relettered former subdivision (d) as subdivision (e). Stats. 1993, Ch. 876, Section 29, in effect October 6, 1993, deleted "and" after "Transportation," and added "the State Department of Social Services," after "Equalization," in the first sentence of subdivision (c). Stats. 1993, Ch. 876, Section 30, in effect October 6, 1993, operative January 1, 1994, deleted "and" after "(c),", and added "and (e)" after "(d)" in the first sentence of subdivision (a); deleted the balance of the first sentence in subdivision (b) after "county", and substantially restated the deleted portion in subdivision (e); deleted former subdivision letter (c) before "The assessor" to establish a second paragraph in subdivision (b); relettered former subdivisions (d) and (e) as (c) and (d), respectively; added the first sentence, substituted "subdivision" for "section" after "this" in the second sentence, and substituted ". However," for ", but" in the third sentence, thereby establishing the fourth sentence of subdivision (d); and added subdivisions (e) and (f). Stats. 1995, Ch. 498, in effect January 1, 1996, added paragraph designation "(1)", added paragraph (2), and created paragraph (3) from former second sentence in subdivision (e); and added paragraph (3) in subdivision (f). Stats. 1996, Ch. 667, in effect September 20, 1996, substituted "that" for "which" after "assessor's office", and substituted "that" for "which" after "maintain records" in subdivision (a); deleted "probate referees" after "tax postponement purposes," substituted "Department of Financial Institutions" for "Department of Savings and Loan" after "staff appraisers of the", and added "the Department of Water Resources," after "Social Services" in the first sentence, substituted "Department of Financial Institutions" for "Department of Savings and Loan" after "staff appraisers of the", deleted "or" after "Department of Transportation", and added ", or the Department of Water Resources" after "General Services" in the second sentence of subdivision (b). Stats. 1996, Ch. 1064, in effect January 1, 1997, operative July 1, 1997, substituted "which" for "that" after "maintain records" in subdivision (a); substituted "Department of Financial Institutions" for "Department of Savings and Loan" after "staff appraisers of the" in the first and second sentences, and added "or" after "Transportation," in the second sentence of subdivision (b). Stats. 1997, Ch. 940 (SB 1105), in effect January 1, 1998, deleted "or" after "Department of Transportation," in the second sentence of the second paragraph of subdivision (b) and deleted "assessor's" before "tax lien" in the second sentence of subdivision (c). Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, added "the State Lands Commission," after "Equalization," in the first sentence and added "the State Lands Commission," after "General Services," in the second sentence of the second paragraph of subdivision (b). Stats. 2002, Ch. 759 (AB 3033), in effect January 1, 2003, added "the Department of Child Services," after "Department of Social Services," in the first sentence of the second paragraph of subdivision (b).

Note.—Section 17 of Stats. 1974, Ch. 1107, p. 2372, provided that it is the intent of the Legislature in amending the section that homeowners' property tax exemption claims and the data contained on these claims, such as the social security numbers of claimants, not be public documents or open to public inspection, but that properties receiving the exemption be so identified on the local assessment roll in order that the public continues to have access to information as to which properties are receiving the exemption. Further, the amendments to the section are to apply to all homeowners' property tax exemption claims in the possession of the assessor on the effective date thereof or in the future.

Note.—Section 2 of Stats. 1984, Ch. 1641, provided no appropriation is made by this act because this act provides for reimbursement to local agencies for the program or level of service mandated by this act.

Note.—Section 6 of Stats. 1985, Ch. 200, provided reimbursement to local governments for costs mandated by the State pursuant to this act.

Note.—Section 35(b) of Stats. 1987, Ch. 1162, provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in subdivision (c) of Section 408 of the Revenue and Taxation Code to cover any costs to county assessors that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

Construction.—The words "kept or prepared" in this section are not synonymous, and even though not prepared by the assessor, an affidavit submitted to claim a welfare exemption which is retained in the assessor's records is "kept" by the assessor for the purposes of this section and is open to public inspection. *Gallagher* v. *Boller,* 231 Cal.App.2d 482. There is no inconsistency between this section and section 1606; either method is available to a taxpayer who appeals his assessment. This section was intended to broaden the taxpayer's right to information. The assessor may avoid any eleventh hour demand by invoking the exchange procedure under section 1606. *Henderson* v. *Bettis,* 53 Cal.App.3d 486.

Information relating to affairs of another.—"Market data", as used in the section, is narrowly defined in subdivision (d), and both subdivisions (b) and (d) make it clear that market data and other assessor's records relating to a taxpayer's assessment are not to be construed to require disclosure of information relating to the business affairs of another taxpayer. Thus, information furnished to an assessor by an oil company on its acquisition of certain property did not constitute market data and was not subject to disclosure by the assessor in defending his assessment against taxpayer oil company. *Chanslor-Western Oil and Development Co.* v. *Cook,* 101 Cal.App.3d 407.

Examination by State Board.—Assessor's records, including those relating to assessment of specific properties, are subject to inspection by State Board of Equalization, *State Board of Equalization* v. *Watson,* 68 Cal.2d 307.

Assessors' working papers not required by law to be prepared are not open to public inspection.—Plaintiff sought to inspect the documents and records used to update the assessment roll such as photocopies of deeds and papers identifying sales transactions. Plaintiff contended that these papers were essential to performance of the assessor's duties and therefore should be considered as information and records required by law to be kept by the assessor and hence open to inspection under this section. The court rejected the contention because it would render all papers in the assessor's office open to inspection and thus render the section meaningless. No provision of law required the assessor to obtain, use, or file the papers in question, therefore, they are not open to inspection. *Statewide Homeowners, Inc.* v. *Williams,* 30 Cal.App.3d 567.

408.1. **List of transfers.** [Repealed by Stats. 1976, Ch. 671, in effect January 1, 1977, operative May 1, 1980.]

408.1. **List of transfers.** (a) The assessor shall maintain a list of transfers of any interest in property, other than undivided interests, within the county, which have occurred within the preceding two-year period.

(b) The list shall be divided into geographical areas and shall be revised on the 30th day of each calendar quarter to include all such transactions which are recorded as of the preceding quarter.

(c) The list shall contain the following information:

(1) Transferor and transferee, if available;

(2) Assessor's parcel number;

(3) Address of the sales property;

(4) Date of transfer;

(5) Date of recording and recording reference number;

(6) Where it is known by the assessor, the consideration paid for such property; and

(7) Additional information which the assessor in his discretion may wish to add to carry out the purpose and intent of this section. Other than sales information, the assessor shall not include information on the list which relates to the business or business affairs of the owner of the property, information concerning the business carried on upon the subject property, or the income or income stream generated by the property.

(d) The list shall be open to inspection by any person. The assessor may require the payment of a nonrefundable fee equal to an amount which would reimburse local agencies for their actual administrative costs incurred in such inspections or ten dollars ($10), whichever is the lesser amount.

(e) The provisions of this section shall not apply to any county with a population of under 50,000 people, as determined by the 1970 federal decennial census.

(f) Pursuant to Section 481, the assessor shall not include information on the list which was furnished in the change in ownership statement by the transferee and is not otherwise public information.

History.—Added by Stats. 1980, Ch. 1349, in effect January 1, 1981.

408.2. **Public records open to public inspection.** (a) Except as otherwise provided in Sections 451 and 481 of this code and in Section 6254 of the Government Code, any information and records in the assessor's office which are required by law to be kept or prepared by the assessor, other than homeowners' exemption claims, are public records and shall be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county and shall provide any market data in his or her possession to an assessee of property or his or her designated representative upon request. The assessor shall permit an assessee of property or his or her designated representative to inspect at the assessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his or her property. Except as provided in Section 408.1, an assessee or his or her designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his or her assessment.

(c) The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, probate referees, employees of the Franchise Tax Board for tax administration purposes only, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records.

(d) For purposes of this section, ''market data'' means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the

consideration paid for the property, whether paid in money or otherwise, but for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

(e) This section shall apply only to a county with a population which exceeds 4,000,000.

History.—Added by Stats. 1981, Ch. 523, in effect January 1, 1982. Stats. 1984, Ch. 678, in effect January 1, 1985, substituted "probate" for "inheritance tax" before "referees" in subdivision (c); and deleted former subdivision (f). Stats. 1985, Ch. 200, effective January 1, 1986, added "or her" after each "his" and substituted "that" for "such" after "unless" in the third sentence of subdivision (b); added a comma after "abstracts", added "employees of the Franchise Tax Board for tax administration purposes only," after "referees,", and substituted "the" for "such" after "examine" in subdivision (c); and added "or her" after each "him" and "his", substituted "that" for "such" after "on" in first sentence, and substituted "that" for "such" after "location of" and deleted "such" after "providing" in second sentence of subdivision (d).

Note.—Section 6 of Stats. 1985, Ch. 200, provided reimbursement to local governments for costs mandated by the State pursuant to this act.

408.3. **Property characteristics information; public records.** (a) Except as otherwise provided in Sections 451 and 481 and in Section 6254 of the Government Code, property characteristics information maintained by the assessor is a public record and shall be open to public inspection.

(b) For purposes of this section, ''property characteristics,'' includes, but is not limited to, the year of construction of improvements to the property, their square footage, the number of bedrooms and bathrooms of all dwellings, the property's acreage, and other attributes of or amenities to the property, such as swimming pools, views, zoning classifications or restrictions, use code designations, and the number of dwelling units of multiple family properties.

(c) Notwithstanding Section 6257 of the Government Code or any other provision of law, if the assessor provides property characteristics information at the request of any party, the assessor may require that a fee reasonably related to the actual cost of developing and providing the information be paid by the party receiving the information.

The actual cost of providing the information is not limited to duplication or production costs, but may include recovery of developmental and indirect costs, as overhead, personnel, supply, material, office, storage, and computer costs. All revenue collected by the assessor for providing information under this section shall be used solely to support, maintain, improve, and provide for the creation, retention, automation, and retrieval of assessor information.

(d) The Legislature finds and declares that information concerning property characteristics is maintained solely for assessment purposes and is not continuously updated by the assessor. Therefore, neither the county nor the assessor shall incur any liability for errors, omissions, or approximations with respect to property characteristics information provided by the assessor to any party pursuant to this section. Further, this subdivision shall not be construed to imply liability on the part of the county or the assessor for errors, omissions, or other defects in any other information or records provided by the assessor pursuant to the provisions of this part.

History.—Added by Stats. 1986, Ch. 1511, effective January 1, 1987. Stats. 1995, Ch. 527, in effect January 1, 1996, deleted "of this code" after "and 481" in subdivision (a); deleted "such" after "indirect costs," in the first sentence of the second paragraph in subdivision (c); deleted former subdivision (e) which read: "Except as provided in subdivision (f), this section shall apply only to a county with a population which exceeds 715,000."; and deleted former subdivision (f) which read: "In any county with a population of 715,000 or less, the assessor may make property characteristic information open to public inspection."

Note.—Section 2 of Stats. 1986, Ch. 1511, provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

409. **Fee for actual cost of developing and providing information.** (a) Notwithstanding Section 6257 of the Government Code or any other statutory provision, if the assessor, pursuant to the request of any party, provides information or records that the assessor is not required by law to prepare or keep, the county may require that a fee reasonably related to the actual cost of developing and providing that information be paid by the party receiving the information.

The actual cost of providing the information is not limited to duplication or reproduction costs, but may include recovery of developmental and indirect costs, such as overhead, personnel, supply, material, office, storage, and computer costs.

It is the intent of this section that the county may impose this fee for information and records maintained for county use, as well as for information and records not maintained for county use.

Nothing herein shall be construed to require an assessor to provide information to any party beyond that which he or she is otherwise statutorily required to provide.

(b) For purposes of this section, ''market data,'' as defined in Section 408.1, shall be deemed to be information the assessor is required by law to prepare or keep when requested by the assessee or a designated representative of the assessee.

(c) This section shall not apply to requests of the State Board of Equalization for information.

History.—Added by Stats. 1981, Ch. 523, in effect January 1, 1982. Stats. 1983, Ch. 116, in effect January 1, 1984, deleted former subdivision (d), which limited the applicability of the section to a county with a population in excess of 4,000,000, and relettered former subdivision (e) as subdivision (d). Stats. 1984, Ch. 678, in effect January 1, 1985, deleted former subdivision (d).

Note.—Section 3 of Stats. 1981, Ch. 523, provided that the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances in Los Angeles County which are not common to other counties. The assessor's office in Los Angeles County has expended considerable time and funds developing a data base from which details concerning properties within the county can be generated. The assessor's office receives numerous requests for specified information available from the data base, but because current law only permits the assessor to charge any party making such a request the cost of duplicating information, the assessor's office must absorb considerable costs in filing such request. This act is necessary to permit the assessor of Los Angeles County to recover the cost of providing information which he is not by law required to prepare or keep.

Article 1.3. Assessment of Implements of Husbandry *

* Article 1.3 was added by Stats. 1970, p. 1744, in effect November 23, 1970.

410. **Legislative intent.** It is the intent of the Legislature in enacting this article to provide for a uniform system of assessment of all implements of husbandry in this state, regardless of where located.

410.10. **Intercounty pipelines; full cash value.** [Renumbered as 401.10 by Stats. 1997, Ch. 17, in effect January 1, 1998.]

411. **"Implement of husbandry."** For the purposes of this article, ''implement of husbandry'' includes, but is not limited to, any tool, machine, equipment, appliance, device or apparatus used in the conduct of agricultural operations, except where such implements are intended for sale in the ordinary course of business.

''Implement of husbandry'' also includes those implements of husbandry as defined in the Vehicle Code.

412. **Assessment.** The assessor of the county in which the implement of husbandry is located shall assess the implement as provided in this article.

413. **Valuation.** In assessing the implement of husbandry, the county assessor shall determine the value of the implement in accordance with standards and guides to the full cash value.

414. **Owner's statement; contents.** Upon request of the assessor of the county in which an implement of husbandry is located, the owner shall file with him a statement setting forth the make, model and year of manufacture of the implement.

Article 1.5. Valuation of Open-Space Land Subject to an Enforceable Restriction †

421. **Definitions.** For the purposes of this article:

(a) ''Agricultural preserve'' means an agricultural preserve created pursuant to the California Land Conservation Act of 1965 (Williamson Act) (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code).

† Stats. 1969, p. 1930, in effect November 10, 1969, repealed Section 4 of Stats. 1967, p. 3651, which made Article 1.5 operative only until the 61st day following adjournment of the Regular Session of the 1970 Legislature.

(b) ''Contract'' means a contract executed pursuant to the California Land Conservation Act.

(c) ''Agreement'' means an agreement executed pursuant to the California Land Conservation Act prior to the 61st day following the final adjournment of the 1969 Regular Session of the Legislature and that, taken as a whole, provides restrictions, terms and conditions that are substantially similar or more restrictive than those required by statute for a contract.

(d) ''Scenic restriction'' means any interest or right in real property acquired by a city or county pursuant to Chapter 12 (commencing with Section 6950) of Division 7 of Title 1 of the Government Code, where the deed or other instrument granting such right or interest imposes restrictions that, through limitation of their future use, will effectively preserve for public use and enjoyment, the character of open spaces and areas as defined in Section 6954 of the Government Code.

A scenic restriction shall be for an initial term of 10 years or more, and shall provide for either of the following:

(1) A method whereby the term may be extended by mutual agreement of the parties.

(2) That the initial term shall be subject to annual automatic one-year extensions as provided for contracts in Sections 51244, 51244.5, and 51246 of the Government Code, unless notice of nonrenewal is given as provided in Section 51245 of the Government Code.

A scenic restriction may not be terminated prior to the expiration of the initial term, and any extension thereof, except as provided for cancellation of contracts in Sections 51281, 51282, 51283 and 51283.3 of the Government Code, and subject to the provisions therein for payment of the cancellation fee.

(e) ''Open-space easement'' means an open-space easement granted to a county or city pursuant to Chapter 6.5 (commencing with Section 51050) of Part 1 of Division 1 of Title 5 of the Government Code if the easement is acquired prior to January 1, 1975, or an open-space easement granted to a county, city, or nonprofit organization pursuant to Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5 of the Government Code if the easement is acquired after January 1, 1975, or an open-space easement granted to a regional park district, regional park and open-space district, or regional open-space district under Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of the Public Resources Code.

(f) ''Wildlife habitat contract'' means any contract or amended contract or covenant involving, except as provided in Section 423.8, 150 acres or more of land entered into by a landowner with any agency or political subdivision of the federal or state government limiting the use of lands for a period of 10 or more years by the landowner to habitat for native or migratory wildlife and native pasture. These lands shall, by contract, be eligible to receive water for waterfowl or waterfowl management purposes from the federal government.

(g) ''Open-space land'' means any of the following:

(1) Land within an agricultural preserve and subject to a contract or an agreement.

(2) Land subject to a scenic restriction.

(3) Land subject to an open-space easement.

(4) Land that has been restricted by a political subdivision or an entity of the state or federal government, acting within the scope of its regulatory or other legal authority, for the benefit of wildlife, endangered species, or their habitats.

(h) ''Typical rotation period'' means a period of years during which different crops are grown as part of a plant cultural program. Typical rotation period does not mean the rotation period of timber.

(i) ''Wildlife'' means waterfowl of every kind and any other undomesticated mammal, fish, or bird, or any reptile, amphibian, insect, or plant.

(j) ''Endangered species'' means any species or subcategory thereof, as defined in the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), that has been classified and protected as an endangered, threatened, rare, or candidate species by any entity of the state or federal government.

History.—Added by Stats. 1969, p. 1702, operative March 1, 1970. Stats. 1973, Ch. 1165, p. 2424, in effect January 1, 1974, added subdivision (f), relettered former subdivision (f) to (g) and former subdivision (g) to (h), and added subdivision (i). Stats. 1974, Ch. 1003, p. 2159, in effect January 1, 1975, added the balance of subdivision (e) after first "Government Code". Stats. 1977, Ch. 1178, in effect January 1, 1978, added "nonprofit organization" in subdivision (e), and substituted "Landowner" for "Landowners" and "or" for "of" after "10" in the first sentence of subdivision (f). Stats. 1982, Ch. 71, in effect March 1, 1982, added ", or an open-space easement granted to a regional park district regional park and open-space district, or regional open-space district under Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of the Public Resources Code" after "after January 1, 1975" in subdivision (e). Stats. 1996, Ch. 997, in effect September 27, 1996, substituted "that" for "which" twice, and deleted the comma after "terms" in subdivision (c); substituted "that" for "which" after "imposes restrictions" in the first sentence of the first paragraph of subdivision (d) and substituted "provide for either of the following:" for "either:" in the second paragraph of subdivision (d); substituted "A method" for "Provide a method", and substituted "the parties." for "the parties, or" in paragraph (1), and substituted "That the initial" for "Provide that the initial" in paragraph (2) of subdivision (d); added ",except as provided in Section 423.8," after "or covenant involving" in the first sentence, and substituted "These" for "Such" in the second sentence of subdivision (f); added paragraph (4) of subdivision (g); added ",or any reptile, amphibian, insect, or plant" after "bird" in subdivision (i); and added subdivision (j).

Note.—Stats. 1971, p. 130, in effect May 25, 1971, provided:

SECTION 1. (a) For purposes of subdivision (c) of Section 421 of the Revenue and Taxation Code, an agreement, when taken as a whole, shall be deemed to provide restrictions, terms and conditions which are substantially similar to, or more restrictive than, those required by statute for a contract if at the time of its execution:

(1) The agreement had an initial term of seven years or more.

(2) The agreement could be canceled only by reason of condemnation of all or part of the property subject to the agreement or by reason of the death of an owner of the property subject to the agreement.

(3) The agreement provided that cancellation of the agreement must be approved by the board of supervisors or city council.

(b) The provisions of this section shall not be construed to provide the exclusive terms of validation for agreements executed pursuant to the California Land Conservation Act and shall apply to assessments for the 1971–1972 fiscal year only. The provisions of this section shall not be deemed to permit any reduction in the restrictions, terms, and conditions heretofore imposed by agreement.

SEC. 2. Notwithstanding any other provision of law to the contrary, the assessment procedures specified under Section 423 of the Revenue and Taxation Code shall be effective with respect to land subject to taxation for the 1971–1972 fiscal year only, if such land is subject to an instrument meeting the requirements set by Section 1 of this act.

Note.—Section 10 of Stats. 1974, Ch. 1003, p. 2161, provided no payment by state to local governments because of this act. Sec. 11 thereof provided that the provisions of this act shall be given prospective application only and shall not be construed in a manner which would impair the obligation of any existing open-space easement or scenic restriction entered into prior to January 1, 1975. Land subject to any such easement or restriction on such date shall continue to be assessed under Article 1.5 (commencing with Section 421) of Chapter 3 of Part 2 of Division 1 of the Revenue and

Taxation Code so long as such land otherwise qualifies for assessment under such article and qualifies under Chapter 6.5 (commencing with Section 51050) of Part 1 of Division 1 of Title 5 of, or under Chapter 12 (commencing with Section 6950) of Division 7 of Title 1 of, the Government Code.

421.5. **Definitions.** For purposes of this article, the following terms have the following meaning:

(a) ''Agricultural conservation easement'' shall have the same meaning as defined in Section 10211 of the Public Resources Code.

(b) ''Open-space land'' includes land subject to an agricultural conservation easement.

History.—Added by Stats. 1995, Ch. 931, in effect January 1, 1996. Stats. 2002, Ch. 616 (SB 1864), in effect January 1, 2003, deleted "a conservation easement, as" after "same meaning as" and substituted "Section 10211 of the Public Resources Code" for "Section 815.1 of the Civil Code" after "defined in" in the first sentence of subdivision (a).

422. **Enforceable restriction defined.** For the purposes of this article and within the meaning of Section 8 of Article XIII of the Constitution, open-space land is ''enforceably restricted'' if it is subject to any of the following:

(a) A contract;

(b) An agreement;

(c) A scenic restriction entered into prior to January 1, 1975;

(d) An open-space easement; or

(e) A wildlife habitat contract.

For the purposes of this article no restriction upon the use of land other than those enumerated in this section shall be considered to be an enforceable restriction.

History.—Added by Stats. 1969, p. 1703, operative March 1, 1970. Stats. 1973, Ch. 1165, p. 2425, in effect January 1, 1974, added subsection (e). Stats. 1974, Ch. 1003, p. 2160, in effect January 1, 1975, added the balance of subsection (c) after "restriction". Stats. 1975, Ch. 224, p. 603, in effect January 1, 1976, substituted "Section 8 of Article XIII" for "Article XXVIII", deleted "State" before "Constitution", and substituted "open-space land is 'enforceably restricted' if it is subject to" for " 'enforceable restriction' " in the first sentence of the first paragraph.

Note.—Stats. 1971, p. 1446, in effect August 24, 1971, provided:

SECTION 1. A contract which at the time of its execution contained any or all of the requirements contained in this section shall be deemed to provide an enforceable restriction for purposes of Section 422 of the Revenue and Taxation Code and shall be entitled to assessment under Section 423, 423.5 or 429 of such code, provided that such contract otherwise conforms to the statutory requirements of the California Land Conservation Act of 1965, as contained in Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code.

(a) If such contract provides for its nullification upon the filing of a condemnation of an interest in all or any part of the property subject to the contract and the board of supervisors of the county or city council of the city having jurisdiction over the land subject to such contract passes an ordinance interpreting such provision, in the case of a condemnation of less than a fee interest, to mean the nullification operates for purposes of establishing value for condemnation purposes but that any termination of the contract is to be pursuant to Article 5 (commencing with Section 51280) of Chapter 7 of Part 1 of Division 1 of Title 5 of the Government Code; or

(b) If such contract provides that the remaining portion of land after an action or acquisition by condemnation is determined by the board of supervisors of the county or city council of the city having jurisdiction over the land subject to the contract to be impaired to such extent as to make it unsuitable for those uses legally available to the owner under terms of his contract and the board of supervisors of the county or city council of the city having jurisdiction over the land subject to such contracts passes an ordinance stating that in administering such portion of a contract it will apply Article 5 (commencing with Section 51280) of Chapter 7 of Part 1 of Division 1 of Title 5 of the Government Code; or

(c) If such contract provides for any waiver of a cancellation payment provided that such waiver is in the best interest of the program to conserve agricultural land and the board of supervisors of the county or city council of the city having jurisdiction over the land subject to such contract passes an ordinance stating that in administering such portion of a contract, it will apply subdivision (c) of Section 51283 of the Government Code.

Note.—Stats. 1971, p. 23, in effect March 25, 1971, provided:

SECTION 1. Notwithstanding any other provision of law to the contrary, the assessment procedures specified under Sections 423 and 423.5 of the Revenue and Taxation Code shall be effective with respect to land subject to taxation for the 1971–1972 fiscal year, if such land is subject to an instrument meeting the requirements of Section 422 of the Revenue and Taxation Code and such instrument is signed or accepted and recorded on or before May 15, 1971; provided, that prior

to 5 o'clock p.m. on March 1, 1971, either the land which is subject to a contract was included in a proposal to establish an agricultural preserve submitted to the planning commission or planning department or the matter of accepting an open-space easement or scenic restriction had been referred to such commission or department.

Note.—Stats. 1971, p. 258, in effect June 25, 1971, contained substantially identical provisions.

Note.—Stats. 1972, p. 866, in effect July 28, 1972, provided:

Notwithstanding any other provision of law to the contrary, the assessment procedures specified under Sections 423 and 423.5 of the Revenue and Taxation Code shall be effective with respect to land subject to taxation for the 1972–1973 fiscal year, if such land is subject to an instrument meeting the requirements of Section 422 of the Revenue and Taxation Code and such instrument is signed and recorded on or before May 25, 1972; provided, that prior to 5 o'clock p.m. on March 1, 1972, either the land which is subject to a contract was included in a proposal to establish an agricultural preserve submitted to the planning commission or planning department or the matter of accepting an open-space easement or scenic restriction had been referred to such commission or department.

Generally.—Agreements concluded under the Land Conservation Act of 1965 will not be invalid under later amendments to the act if the restrictive conditions are substantially similar to the amended provisions. *Marin County* v. *Assessment Appeals Board*, 64 Cal.App.3d 319.

422.5. **Open-space land; "enforceably restricted".** For the purposes of this article, open-space land is ''enforceably restricted'' within the meaning of Section 8 of Article XIII of the California Constitution if it is subject to an agricultural conservation easement.

History.—Added by Stats. 1995, Ch. 931, in effect January 1, 1996.

423. **Factors to be considered in valuation.** Except as provided in Sections 423.7 and 423.8, when valuing enforceably restricted open-space land, other than land used for the production of timber for commercial purposes, the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall value these lands by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available the income shall be the fair rent which can be imputed to the land being valued based upon rent actually received for the land by the owner and upon typical rentals received in the area for similar land in similar use, where the owner pays the property tax. Any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which comparable lands have been rented, determined by average rents paid to owners as evidenced by typical land leases in the area, giving recognition to the terms and conditions of the leases and the uses permitted within the leases and within the enforceable restrictions imposed.

(2) Where sufficient rental information is not available, the income shall be that which the land being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the land is enforceably restricted. There shall be a rebuttable presumption that ''prudent management'' does not include use of the land for a recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to that use.

(3) Notwithstanding any other provision herein, if the parties to an instrument which enforceably restricts the land stipulate therein an amount which constitutes the minimum annual income per acre to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For the purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the land can be expected to yield to an owner-operator annually on the average from any use of the land permitted under the terms by which the land is enforceably restricted, including, but not limited to, that from the production of salt and from typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes, or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. Proceeds from the sale of the land being valued shall not be included in the revenue from the land.

Expenditures shall be any outlay or average annual allocation of money or money's worth that has been charged against the revenue received during the period used in computing that revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the land, interest on funds invested in trees and vines valued as land as provided by Section 429, property taxes, corporation income taxes, or corporation franchise taxes based on income. When the income used is from operating the land being valued or from operating comparable land, amounts shall be excluded from the income to provide a fair return on capital investment in operating assets other than the land, to amortize depreciable property, and to fairly compensate the owner-operator for his operating and managing services.

(b) The capitalization rate to be used in valuing land pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year which is the arithmetic mean, rounded to the nearest ¼ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to each of the four immediately preceding assessment years. The interest component defined by this paragraph shall be implemented in phases and shall be:

(A) For the 1993–94 assessment year, the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, rounded to the nearest ¼ percent.

(B) For the 1994–95 assessment year, the arithmetic mean, rounded to the nearest ¼ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rate for those bonds, as most recently published by the Federal Reserve Board as of the September 1 immediately prior to the 1993–94 assessment year.

(C) For the 1995–96 assessment year, the arithmetic mean, rounded to the nearest ¼ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to the 1993–94 and 1994–95 assessment years.

(D) For the 1996–97 assessment year, the arithmetic mean, rounded to the nearest ¼ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to the 1993–94, 1994–95, and 1995–96 assessment years.

(E) For the 1997–98 assessment year, and each fiscal year thereafter, the arithmetic mean, rounded to the nearest ¼ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to the four immediately preceding assessment years.

(2) A risk component which shall be a percentage determined on the basis of the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject.

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the land for the assessment year times the assessment ratio. The estimated total tax rate shall be the cumulative rates used to compute the state's reimbursement of local governments for revenues lost on account of homeowners' property tax exemptions in the tax rate area in which the enforceably restricted land is situated.

(4) A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

(c) The value of the land shall be the quotient for the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b).

(d) Unless a party to an instrument which creates an enforceable restriction expressly prohibits such a valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed

the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

In determining the 1975 base year value under Article XIII A of the California Constitution for any parcel for comparison, the county may charge a contractholder a fee limited to the reasonable costs of such determination not to exceed twenty dollars ($20) per parcel.

(e) If the parties to an instrument which creates an enforceable restriction expressly so provide therein, the assessor shall assess those improvements which contribute to the income of land in the manner provided herein. As used in this subdivision ''improvements which contribute to the income of the land'' shall include, but are not limited to, wells, pumps, pipelines, fences, and structures which are necessary or convenient to the use of the land within the enforceable restrictions imposed.

History.—Stats. 1969, p. 1703, operative March 1, 1970, completely revised this section. Stats. 1970, p. 1591, in effect November 23, 1970, added the rebuttable presumption in subsection (a)(2). Stats. 1971, p. 3617, in effect March 4, 1972, substituted "the following" for "three" in subdivision (b) of the fourth paragraph and added (4) to subsection (b). Stats. 1972 p. 2191, in effect March 7, 1973, combined the second and third paragraphs in subsection (b)(2). Stats. 1973, Ch. 1165, p. 2425, in effect January 1, 1974, added "Except as provided in Section 423.7" at the beginning of the first paragraph, Stats. 1974, Ch. 311, p. 604, in effect January 1, 1975, substituted "enforceably restricted open-space land" for "open-space land subject to an enforceable restriction", and substituted "enforceably restricted" for "subject to an enforceable restriction" in the first sentence of the first paragraph; substituted "provisions under which the land is enforceably restricted" for "enforceable restrictions" in the second sentence of subsection (a)(1) and in the first sentence of subsection (b)(1); and substituted "by which the land is enforceably restricted" for "of the enforceable restriction" in the second sentence of the second paragraph. Stats. 1976, Ch. 423, p. 1083, in effect July 1, 1976, added subsection (a)(3), and deleted the former fourth paragraph which required that the board and the assessor impute income to land in certain cases. Stats. 1978, Ch. 1120, in effect January 1, 1979, substituted the second sentence for the former second sentence of subdivision (a)(1) which read "When the land being valued is actually encumbered by a lessee, any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which the land would be expected to rent were the rental payment to be renegotiated in the light of current conditions including applicable provisions under which the land is enforceably restricted", substituted "5120" for "51201" after "Section" in subdivision (a)(2), substituted "as evidenced by historic cropping patterns and agricultural commodities grown" for "not to exceed six years including the tax year and the next succeeding five years" after "period" in the second and third sentences of the second paragraph, deleted "expected to be" after "revenue" in the first sentence of the third paragraph, added the second sentence to subsection (b)(3), and added subdivisions (e) and (f). Stats. 1979, Ch. 1075, in effect September 28, 1979, applicable to the 1979–80 fiscal year and thereafter substituted "51201" for "5120" in the second sentence of the subdivision (a)(2), substituted subdivision (e) for the former subdivision (e), and substituted "subdivision" for "subsection" in the second sentence of subdivision (f). Stats. 1981, Ch. 261, in effect January 1, 1982, deleted "one-quarter" before and the parentheses surrounding "¼" in subsection (1) of subdivision (b), deleted subdivision (d), and relettered former subdivisions "(e)" and "(f)" as "(d)" and "(e)", respectively. Stats. 1984, Ch. 678, in effect January 1, 1985, deleted "the board for purposes of surveys required by Section 1815 of this code . . . and " after "purposes," in the first sentence. Stats. 1987, Ch. 144, in effect January 1, 1988, substituted "these" for "such" after "value" in the first sentence; substituted "that" or "the" for "such" in paragraphs (a)(2), (a)(3) and (d); in (a)(3) substituted "." for "; and" after "subject" in subdivision (b)(2); added "the lesser of either" after "exceed" and added "by calculation under Section 110, or the valuation that would have resulted" after "resulted" in the first sentence of the first paragraph of subdivision (d), deleted the former second paragraph thereof, which provided that "The county assessor shall notify annually the parties to an instrument which creates an enforceable restriction that unless either party expressly prohibits such a valuation, the valuation resulting from the capitalization of income method shall not exceed the valuation that would have resulted by calculation under Section 110.1, as though such property was not subject to an enforceable restriction in the base year", and substituted "contractholder" for "contract holder" after "charge a" in the first sentence of the third paragraph thereof. Stats. 1992, Ch. 247, in effect January 1, 1993, substituted ", which is the . . . ¼ percent, of" for "and which was" after "assessment year", and substituted "and the corresponding yield rates . . . preceding assessment years" for "rounded to the nearest ¼ percent" after "Federal Reserve Bank" in the first sentence of paragraph (1) of subdivision (b); added the second sentence of paragraph (A) of subdivision (b), and added subparagraphs (A), (B), (C), (D), and (E) to paragraph (1) of subdivision (b). Stats. 1996, Ch. 997, in effect September 27, 1996, substituted "Sections 423.7 and 423.8" for "Section 423.7" after "Except as provided in" in the first sentence.

Note.—Stats. 1968, p. 875, in effect June 28, 1968, provides that the assessment procedures specified under Section 423 shall be effective with respect to land for the 1968–69 fiscal year if the land is subject to an instrument, meeting the requirements of Section 422, which was signed and recorded on or before June 15, 1968. Stats. 1969, p. 60, in effect February 25, 1969, and Stats. 1970, p. 14, in effect February 27, 1970, similarly provide for the 1959–70 and 1970–71 fiscal years respectively. Section 4 of Stats. 1979, Ch. 1075, provided that notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because local government entities have the option to prohibit computation of the lower of Williamson Act values determined according to capitalization rates or Article XIII A, and thus, this act does not itself impose additional duties or result in loss of revenues.

423.3. **Valuation of enforceably restricted lands.** Any city or county may allow land subject to an enforceable restriction under the Williamson Act or a migratory waterfowl habitat contract to be assessed in accordance with one or more of the following:

(a) Land specified in subdivision (a) of Section 16142 of the Government Code shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 70 percent.

(b) Prime commercial rangeland shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 80 percent.

For purposes of this subdivision ''prime commercial rangeland'' means rangeland which meets all of the following physical-chemical parameters:

(1) Soil depth of 12 inches or more.

(2) Soil texture of fine sandy loam to clay.

(3) Soil permeability of rapid to slow.

(4) Soil with at least 2.5 inches of available water holding capacity in profile.

(5) A slope of less than 30 percent.

(6) A climate with 80 or more frost-free days per year.

(7) Ten inches or more average annual precipitation.

(8) When managed at potential, the land generally requires less than 17 acres to support one animal unit per year.

Property owners of land specified in this subdivision, shall demonstrate that their land falls within the above definition when requested by the city or county.

(c) Land specified in subdivision (b) of Section 16142 of the Government Code shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 90 percent.

(d) Waterfowl habitat shall be assessed at the value determined as provided in Section 423.7 but not to exceed a uniformly applied percentage of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 90 percent.

History.—Added by Stats. 1980, Ch. 1273, in effect January 1, 1981. Stats. 1982, Ch. 1366, in effect January 1, 1983, substituted "a uniformly applied percentage" for "70 percent" in subdivision (a), for "75 percent" in subdivision (b), for "80 percent" in subdivision (c), and for "90 percent" in subdivisions (d) and (e) after "exceed", added the second sentence to the first paragraphs of subdivisions (a) through (e), and deleted former subdivisions (f) and (g). Stats. 1998, Ch. 689 (SB 1362), in effect January 1, 1999, deleted "or (b)" before "of Section 16142" in subdivision (a); deleted former subdivision (b) which provided that "Land specified in subdivision (c) of Section 16142 of the Government Code shall be assessed at the value determined as provided in Section 423, but not to exceed a uniformly applied percentage of its

base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year. In no event shall that percentage be less than 75 percent."; relettered former subdivisions (c), (d), and (e) as (b), (c), and (d), respectively; substituted "(b)" for "(d)" after "subdivision" in the first sentence of subdivision (c); and added "determined" after "the value" in the first sentence of subdivision (d).

Note.—Section 2 of Stats. 1980, Ch. 1273, provided the Board of Equalization shall conduct a study of the costs associated with this act and shall report to the Legislature on or before December 31, 1982. Section 3 thereof provided no payment by state to local governments because of this act, however, a local agency or school district may pursue other remedies to obtain reimbursement.

423.4. **Farmland security zone.** Land subject to a farmland security zone contract specified in Section 51296.1 of the Government Code shall be valued for assessment purposes at 65 percent of the value under Section 423 or 65 percent of the value under Section 110.1, whichever is lower.

History.—Added by Stats. 1998, Ch. 353 (SB 1182), in effect August 24, 1998. Stats. 2002, Ch. 616 (SB 1864), in effect January 1, 2003, substituted "Section 51296.1" for "Section 51296" after "contract specified in" in the first sentence.

Note.—Section 10 of Stats. 1998, Ch. 383 provided that this act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide the benefits of this act to private property owners at the earliest possible time and enhance the preservation of agricultural land, it is necessary that this act take effect immediately.

423.5. **Valuation of timberland.** When valuing open-space land which is enforceably restricted and used for the production of timber for commercial purposes, the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall determine the value of such timberland to be the present worth of the income which the future harvest of timber crops from the land and the income from other allowed compatible uses can reasonably be expected to yield under prudent management. The value of timberland pursuant to this section shall be determined in accordance with rules and regulations issued by the board. In determining the value of timberland pursuant to this section, the board and the county assessor shall use the capitalization rate derived pursuant to subdivision (b) of Section 423. The ratio prescribed in Section 401 shall be applied to the value of the land determined in accordance with this section to obtain its assessed value.

For the purposes of this section, the income of each acre of land shall be presumed to be no less than two dollars ($2), and the present worth of this income shall not be reduced by the value of any exempt timber on the land.

There shall be a rebuttable presumption that ''prudent management'' does not include use of the land for recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to such use.

History.—Added by Stats. 1969, p. 1705, operative March 1, 1970. Stats. 1970, p. 2877, in effect November 23, 1970, added "and the present worth of the income attributable to other allowed compatible uses of the land" to the first sentence and added the third paragraph. Stats. 1973, Ch. 369, p. 811, in effect January 1, 1974, added "and the income from other allowed compatible uses" after "timber crops from the land", deleted "and the present worth of the income attributable to other allowed compatible uses of the land" and added "under prudent management" after "yield" in the first paragraph; and substituted the second paragraph for the former second paragraph dealing with conditions for imputing a two-dollar-per-acre minimum income. Stats. 1974, Ch. 311, p. 606, in effect January 1, 1975, substituted "which is enforceably restricted" for "subject to an enforceable restriction", and substituted "enforceably restricted" for "subject to an enforceable restriction" in the first sentence of the first paragraph. Stats. 1984, Ch. 678, in effect January 1, 1985, deleted "the board, for purposes of surveys required by section 1815, and "after "purposes" in the first sentence.

423.7. **Valuation of land subject to a wildlife habitat contract.** (a) When valuing open-space land subject to a wildlife habitat contract, as defined in subdivision (f) of Section 421, the board, for purposes of surveys required by Section 15640 of the Government Code, and all assessors shall value that land by using the average current per-acre value based on recent sales including the sale of an undivided interest therein, of lands subject to a wildlife habitat contract within the same county. Whenever ownership of open-space land is held by a corporation and the principal underlying asset of that corporation is represented by those lands, the price received for each bona fide sale of shares of stock in those corporations or certificates of membership in nonprofit corporations shall be treated as a sale of open-space land by the assessor in determining average value for open-space lands within the meaning of this section.

(b) In the valuation of open-space land subject to a wildlife habitat contract as defined in subdivision (f) of Section 421, irrespective of the number of parcels represented by a single ownership, the assessor shall use sales of less than 150 acres in determining the average value of those lands only if the sale is of an undivided interest of land subject to a wildlife habitat contract as defined in subdivision (f) of Section 421. The assessor shall not use any other sale of less than 150 acres of land.

(c) In the event of sales of corporate stock or membership, as referred to in subdivision (a), the assessor shall determine the average per-acre sales price and multiply such sales price by the number of acres held under the single ownership from which the land was sold, in order to determine the current total value of the single ownership.

(d) The assessor shall then determine the average current per-acre value of that land subject to a wildlife habitat contract, as defined in subdivision (f) of Section 421, by adding the current value of all those lands including corporate sales as set forth in subdivision (c), of which there has been a recent sale, and then dividing the total current value by the total number of acres of all that land of which there has been a recent sale.

(e) Whenever less than 10 years remain to the expiration of a wildlife habitat contract, the value of land determined under subdivision (a) shall be modified pursuant to this subdivision. If the full cash value of that land as determined under Section 110.1 is greater than the value determined under subdivision (a) of this section, a pro rata share of the amount of that difference shall be added in annual equal installments to the value determined pursuant to subdivision (a) over the remaining term of the wildlife habitat contract.

(f) Owners of open-space land subject to a wildlife habitat contract which has been used exclusively for habitat by native or migratory wildlife, recreation, and native pasture shall report the sale of that land, or an interest therein, to the county assessor within 30 days of the sale.

(g) In the event that a wildlife habitat contract is canceled upon the application of an owner of the land covered by the contract, a penalty equal to 6 percent of the full cash value of the land as determined under Section

110.1 on the lien date next following cancellation shall be imposed. The penalty shall become delinquent on the December 10 next following that lien date and shall be treated in all respects as a delinquent penalty imposed under Section 2617 or 2704. This subdivision shall not apply when a wildlife habitat contract is canceled without the consent of an owner of the land affected.

(h) The provisions of Section 426 shall not apply to any lands valued for assessment purposes pursuant to the provisions of this section.

(i) The assessor shall not value any land under a single ownership under this section unless the owners of that land have provided the assessor with a schedule of sales of that land that have occurred during the previous four years.

(j) If there are no prior sales within the county of open-space land subject to a wildlife contract and used exclusively for habitat by native or migratory wildlife, recreation, and native pasture, the assessor shall value the land pursuant to Section 110.1.

(k) Unless a party to an instrument which creates an enforceable restriction expressly prohibits such a valuation, the valuation resulting from the method described in this section shall not exceed the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

History.—Added by Stats. 1973, Ch. 1165, p. 2427, in effect January 1, 1974, Sec. 5 thereof provided for state payment to local government for revenue lost because of this act. Stats. 1980, Ch. 802, in effect January 1, 1981, added subdivision (*l*). Stats. 1982, Ch. 1465, in effect January 1, 1983, in addition to making a number of grammatical changes throughout the section, substituted "110.1" for "405" after "Section" in the second sentence of subdivision (e), in the first sentence of subdivision (g), and in the first sentence of subdivision (j); deleted former subdivision (g); and renumbered former subdivisions "(h)" as "(g)," "(i)" as "(h)," "(j)" as "(i)," "(k)" as "(j)," and "*(l)*" as "(k)", respectively. Stats. 1983, Ch. 1281, in effect September 30, 1983, substituted "section 15640 of the Government Code" for "Section 1815" after "required by" in the first sentence of subdivision (a), and substituted "that" for "such a" after "prohibits" in subdivision (k).

423.8. **Wildlife habitat contract.** (a) Notwithstanding the acreage requirement specified in subdivision (f) of Section 421, both of the following apply with respect to enrollment in a wildlife habitat contract:

(1) Any open-space land that has been restricted as wildlife or endangered species habitat by a political subdivision of the state or entity of state government shall, upon the request of the owner of that land, be enrolled in a wildlife habitat contract with the political subdivision of the state or entity of state government that has so restricted the subject open-space land.

(2) Any open-space land that has been restricted as wildlife or endangered species habitat by an agency of the federal government shall, upon the request of the landowner, be enrolled in a wildlife habitat contract with the city or county having jurisdiction over the restricted open-space land. For any open-space land eligible for valuation under Section 422.5, 423, 423.3, 423.5, 426, or 435, that has also been enrolled in a wildlife habitat contract pursuant to this section, the controlling value of the land shall, except as otherwise provided in the following sentence, be the lower of the values determined for

that land pursuant to those sections or Section 402.1. Other lands enrolled in a wildlife habitat contract pursuant to this section shall be assessed at the value determined as provided in Section 402.1.

(b) In no event shall this section or Section 421 be construed to authorize a political subdivision or any entity of the state or federal government to restrict the otherwise lawful use of property by designating all or part of that property as wildlife habitat or endangered species habitat without the consent of the owner of that property.

(c) It is the intent of the Legislature in adding this section to establish a nonexclusive alternative method of recognizing, for purposes of property taxation, the existence of certain governmental restrictions on the use of property. Neither this section nor Section 402.1 shall be construed or applied to require the existence of a wildlife habitat contract, as described in this section, as a necessary condition for recognizing the effect upon the taxable value of property of any enforceable restriction that is recognized under Section 422, 422.5, or 402.1 and is legally established by statute, regulation, or any action or classification by a governmental entity, for the benefit of wildlife, endangered species, or their habitats.

History.—Added by Stats. 1996, Ch. 997, in effect September 27, 1996. Stats. 2002, Ch. 616 (SB 1864), in effect January 1, 2003, added "the" after "government to restrict" in the first sentence of subdivision (b) and added ", 422.5," after "under Section 422" in the second sentence of subdivision (c).

423.9. **Valuation of land zoned as timberland production.** Land which is zoned as timberland production pursuant to Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code and which is not under an open-space contract pursuant to Section 51240 of the Government Code shall be valued pursuant to Section 435.

History.—Added by Stats. 1976, Ch. 176, p. 319, in effect May 24, 1976. Stats. 1982, Ch. 1489, in effect January 1, 1983, substituted "production" for "preserve" after "timberland."

424. **Modification of existing agreements and deeds.** Parties to existing agreements and scenic easement deeds may modify such agreements and deeds to the requirements of Section 422.

426. **Valuation where restriction will be terminated.** Notwithstanding any provision of Section 423 to the contrary, if either the county, city, or nonprofit organization or the owner of land subject to contract, agreement, scenic restriction, or open-space easement has served notice of nonrenewal as provided in Section 51091, 51245, or 51296.9 of the Government Code, and the county assessors shall, unless the parties shall have subsequently rescinded the contract pursuant to Section 51254 or 51255 of the Government Code, value the land as provided in this section.

(a) If the owner of land serves notice of nonrenewal or the county, city, or nonprofit organization serves notice of nonrenewal and the owner fails to protest as provided in Section 51091, 51245, or 51296.9 of the Government Code, subdivision (b) shall apply immediately. If the county, city, or nonprofit organization serves notice of nonrenewal and the owner does

protest as provided in Section 51091, 51245, or 51296 of the Government Code, subdivision (b) shall apply when less than six years remain until the termination of the period for which the land is enforceably restricted.

(b) Where any of the conditions in subdivision (a) apply, the board or assessor in each year until the termination of the period for which the land is enforceably restricted shall do all of the following:

(1) Determine the value of the land pursuant to Section 110.1 of the Revenue and Taxation Code. If the land is not subject to Section 110.1 of the Revenue and Taxation Code when the restriction expires, the value shall be determined pursuant to Section 110 of the Revenue and Taxation Code as if it were free of contractual restriction. If the land will be subject to a use for which the Revenue and Taxation Code provides a special restricted assessment, the value shall be determined as if it were subject to the new restriction.

(2) Determine the value of the land by capitalization of income as provided in Section 423 and without regard to the existence of any of the conditions in subdivision (a).

(3) Subtract the value determined in paragraph (2) of subdivision (b) by capitalization of income from the full value determined in paragraph (1) of subdivision (b).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 423, discount the amount obtained in paragraph (3) of subdivision (b) for the number of years remaining until the termination of the contract, agreement, scenic restriction, or open-space easement.

(5) Determine the value of the land by adding the value determined by capitalization of income as provided in paragraph (2) of subdivision (b) and the value obtained in paragraph (4) of subdivision (b).

(6) Apply the ratio prescribed in Section 401 to the value of the land determined in paragraph (5) of subdivision (b) to obtain its assessed value.

History.—Added by Stats. 1969, p. 1191, in effect November 10, 1969. Stats. 1974, Ch. 1003, p. 2160, in effect January 1, 1975, substituted the first paragraph and subdivision (a) for the former first sentence and subdivision (a)(1), (2), (3), (4), and (5). Stats. 1975, Ch. 224, p. 603, in effect January 1, 1976, added "scenic restriction," after "agreement," in the first sentence of the first paragraph, substituted "the termination of the period for which the land is enforceably restricted" for "the expiration of the enforceable restriction" in the second sentence of subdivision (a), substituted "the period for which the land is enforceably restricted" for "the enforceable restriction" in subdivisions (b) and (b)(4), and substituted "enforceably restricted" for "subject to enforceable restriction" in subdivision (b)(1). Stats. 1977, Ch. 1178, in effect January 1, 1978, added "nonprofit organization" and deleted "s" from "Section" before "51091" in the first paragraph and in subdivision (a), added ", unless the parties have subsequently rescinded such contract pursuant to Section 51254 or 51255 of the Government Code," to the first paragraph, and deleted "subject to" after "not" in subdivision (b)(1). Stats. 1982, Ch. 1366, in effect January 1, 1983, in addition to making a number of grammatical changes throughout this section, added "do all of the following" after "shall" in the first sentence of subdivision (b), deleted "full cash" before "value" and substituted "pursuant to Section 110.1 of the Revenue and Taxation Code" for "as if it were not enforceably restricted" after "land" in the first sentence, and added the second and third sentences in paragraph (1), deleted "cash" after "full" in paragraph (3), and deleted "of this section" before "for the", and substituted "contract, agreement, scenic restriction, or open-space easement" for "period for which the land is enforceably restricted" in paragraph (4) of subdivision (b). Stats. 1984, Ch. 678, in effect January 1, 1985, deleted "the board, for purposes of surveys required by Section 1815," after "51245 of the Government Code." in the first paragraph. Stats. 1998, Ch. 353 (SB 1182), in effect August 24, 1998, substituted "Section 51091, 51245, or 51296" for "Section 51091 or 51245" after "provided in" in the first sentence, and substituted "Section 51091, 51245, or 51296" for "Section 51091 or 51245" after "provided in" twice, in the first and second sentence of subdivision (a). Stats. 2002, Ch. 616 (SB 1864), in effect January 1, 2003, substituted "51296.9" for "51296" after "in Section 51091, 51245, or" twice, in the first sentence of the first paragraph and in the first sentence of subdivision (a).

427. **Consideration of minerals, etc.** Nothing in this article shall prevent the board or the assessor, in valuing open-space land for assessment purposes from taking into consideration the existence of any mines, minerals and quarries in or upon the land being valued, including, but not limited to oil, gas, and other hydrocarbon substances.

History.—Added by Stats. 1969, p. 1705, operative March 1, 1970.

428. **Not applicable to residence or site.** The provisions of this article shall not apply to any residence, including any agricultural laborer housing facility as provided for in Sections 51220, 51231, 51238, and 51282.3 of the Government Code, on the land being valued or to an area of reasonable size used as a site for such a residence.

History.—Added by Stats. 1969, p. 1705, operative March 1, 1970. Stats. 1985, Ch. 186, effective January 1, 1986, added", including any . . . Code," after "residence" and added "a" after "such."

429. **Valuation of trees and vines.** Notwithstanding the provisions of Section 105(b) of this code, in valuing land enforceably restricted pursuant to this article, fruit-bearing or nut-bearing trees and vines on the land and not exempt from taxation shall be valued as land. Any income shall include that which can be expected to be derived from such trees and vines and no other value shall be given such trees and vines for the purpose of assessment.

History.—Added by Stats. 1969, p. 1705, operative March 1, 1970. Stats. 1974, Ch. 311, p. 607, in effect January 1, 1975, substituted "enforceably restricted" for "subject to an enforceable restriction" in the first sentence.

430. **Rebuttable presumption; agricultural usage.** There shall be a rebuttable presumption that the present use of open-space land which is enforceably restricted and devoted to agricultural use is its highest and best agricultural use.

History.—Added by Stats. 1970, p. 1896, in effect November 23, 1970. Stats. 1974, Ch. 311, p. 607, in effect January 1, 1975, substituted "open-space land which is enforceably restricted" for "open land subject to an enforceable restriction". Stats. 1976, Ch. 176, p. 320, in effect May 24, 1976, renumbered the section which was formerly numbered 431.

430.5. **Enforceable restriction required.** No land shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 422 is signed, accepted, and recorded on or before the lien date for the fiscal year to which the valuation would apply. To provide counties and cities with time to meet the requirement of this section, the land that is to be subject to a contract shall have been included in a proposal to establish an agricultural preserve submitted to the planning commission or planning department, or the matter of accepting an open-space easement or scenic restriction shall have been referred to that commission or department on or before October 15 preceding the lien date to which the contract, easement or restriction is to apply.

History.—Added by Stats. 1974, Ch. 253, p. 468, in effect May 15, 1974, operative with respect to assessments for the 1975–76 fiscal year and thereafter. Stats. 1976, Ch. 176, p. 320, in effect May 24, 1976, renumbered the section which was formerly numbered 432. Stats. 1997, Ch. 941 (SB 542), in effect January 1, 1998, substituted "provide" for "assure" before "counties", added "with" before "time", substituted "that" for "which" after "land", substituted "that" for "such" before the second "commission" and substituted "October 15" for "December 15" before "preeceding" in the second sentence.

Note.—Section 2 thereof provided that notwithstanding any other provision of law to the contrary, the assessment procedures specified under Sections 423 and 423.5 of the Revenue and Taxation Code shall be effective with respect to land subject to taxation for the 1974–1975 fiscal year, if such land is subject to an instrument meeting the requirements of Section 422 of the Revenue and Taxation Code and such instrument is signed and recorded on or before May 15, 1974; provided, that prior to 5 o'clock p.m. on March 1, 1974, either the land which is subject to a contract was included in a

proposal to establish an agricultural preserve submitted to the planning commission or planning department or the matter of accepting an open-space easement or scenic restriction had been referred to such commission or department. This section does not apply to land valued pursuant to Section 423.7 of the Revenue and Taxation Code. Section 4 thereof provided that land assessed pursuant to the provisions of Section 2 shall be included for purposes of computing subventions to local government pursuant to Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code for losses due to such assessment procedures for the 1974–1975 fiscal year. Such subventions to local government satisfy the requirements of Section 2229 of the Revenue and Taxation Code.

Article 1.7. Valuation of Timberland and Timber *

431. **Definitions.** For purposes of this article, the following terms have the following meaning:

(a) ''Timber'' means trees of any species maintained for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned lands, including Christmas trees, but does not mean nursery stock.

(b) ''Timberland'' means land zoned pursuant to Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code.

(c) ''Timber Advisory Committee'' means a standing committee appointed by the board composed of one representative of the Board of Equalization, one representative of the State Board of Forestry and Fire Protection, five assessors from the rate adjustment counties defined in Section 38105, and one member representing small-scale timber owners, and one member representing large-scale timber owners.

History.—Stats. 1998, Ch. 972 (SB 989), in effect January 1, 1999, added ", the following terms have the following meaning" after "article" in the first sentence, and substituted "State Board of Forestry and Fire Protection," for "Board of Forestry," before "five assessors" in the first sentence of subdivision (c).

432. **Adoption of rules or regulations.** Any rule or regulation required to be adopted pursuant to this article shall be in compliance with procedures set forth for adoption of rules under the Administrative Procedure Act.

433. **Notation of zoning on assessment roll.** When land is zoned as timberland production a notation of such zoning shall be made on the assessment rolls by the words ''Timberland Production Zone'' or the initials ''T.P.Z.''

History.—Stats. 1982, Ch. 1489, in effect January 1, 1983, substituted "production" for "preserve" after "timberland" and after "Timberland".

* Article 1.7 was added by Stats. 1976, Ch. 176, p. 320, in effect May 24, 1976. Secs. 20 and 21 thereof provided no payment by state to local governments because of this act. Sec. 22 thereof provided that the property tax assessment provisions shall be applicable to assessments for the 1977–78 fiscal year and thereafter.

434. **Instructions for grading timberland; grading.** On or before September 1, 1976, the board, after consultation with the Timber Advisory Committee, shall prepare instructions setting forth temporary criteria and procedures for grading timberland on the basis of its site quality and operability. Five general site quality classes shall be established. These classes shall be the same as those adopted by the State Board of Forestry and Fire Protection pursuant to subdivision (d) of Section 4528 of, and Section 4551 of, the Public Resources Code. Within each of the five site quality classes, appropriate classes of operability shall be established, based on factors, such as accessibility, topography, and legislative or administrative restraints. On or before December 31, 1979, these classes shall be designated as operative or inoperative. Commencing with January 1, 1980, the board shall determine appropriate designations of operability. On or before March 1, 1977, each assessor shall grade all timberland within the county on the basis of these instructions. The assessor's grading is subject to the appeals procedure established by law for other assessments, as provided in Chapter 4 (commencing with Section 721) of Part 2 and Chapter 1 (commencing with Section 1601) of Part 3.

History.—Stats. 1983, Ch. 1281, in effect September 30, 1983, substituted "factors such" for "such factors" after "based on" in the fourth sentence, and substituted "721)" for "751" before "of Part 2" and deleted "of this division" after "Part 3" in the eighth sentence. Stats. 1998, Ch. 972 (SB 989), in effect January 1, 1999, substituted "State Board of Forestry and Fire Protection" for "Board of Forestry" after "adopted by the" and added "of," after "Section 4528" in the third sentence.

434.1. **Rules for grading timberland; grading.** (a) On or before March 1, 1977, the board after consultation with the Timber Advisory Committee shall adopt rules setting forth final procedures for grading timberland on the basis of its site quality and operability. Such rules shall follow the format set forth in Section 434.

(b) On or before March 1, 1978, each assessor in accordance with rules set forth in subdivision (a) shall grade all timberland in his county. The assessor's grading is subject to the appeals procedure established by law for other assessments as provided in Chapter 1 (commencing with Section 1601) of Part 3.

434.2. **Timber advisory committee.** Within 30 days of the effective date of this section, the board shall appoint the timber advisory committee as defined in subdivision (c) of Section 431.

434.5. **Value of timberland.** (a) On March 1, 1984, for the Redwood Region and Pine-Mixed Conifer Region, and on January 1, 1985, for the Whitewood Subzone of the Redwood Region, and January 1 of each year thereafter, the value per acre of timberland zoned under the provisions of Section 51110 or Section 51113 of the Government Code shall be determined from the following schedule:

Redwood Region

Site I	$180
Site II	$150
Site III	$130
Site IV	$114
Site V (and inoperable)	$ 35

Pine-Mixed Conifer Region

Site I	$ 98
Site II	$ 69
Site III	$ 56
Site IV	$ 39
Site V (and inoperable)	$ 23

Whitewood Subzone of the Redwood Region

Site I	$130
Site II	$ 95
Site III	$ 80
Site IV	$ 60
Site V (and inoperable)	$ 30

For purposes of this section:

(1) ''Redwood Region'' means all those timberlands located in Del Norte, Humboldt, Sonoma, Marin, Monterey, Santa Cruz, and San Mateo Counties and that portion of Mendocino County which lies west and south of the main Eel River.

(2) ''Whitewood Subzone of the Redwood Region'' means that timberland located within the Redwood Region within which the assessor has determined that redwood did not exist as a species in the composition of the original timber stand, or which has not been replanted with redwood for commercial purposes.

(3) ''Pine-Mixed Conifer Region'' means all other timberlands outside the Redwood Region.

When the assessor, pursuant to Section 434, designates a timberland parcel or portion thereof as inoperable, that timberland parcel or portion thereof shall be valued as if it is Site V.

(b) In 1985, the board shall determine the current value of timberland by the following process:

(1) For each fiscal year between July 1, 1979, and June 30, 1984, divide the total value of all timber harvested within the state, less miscellaneous forest products not reported by board foot volume, by the total volume of timber harvested, as reported pursuant to Section 38402. Average the five fiscal year values to obtain the five-year periodic immediate harvest value.

(2) For each fiscal year between July 1, 1978, and June 30, 1983, follow the same procedure as described in paragraph (1).

(3) Divide the value obtained by paragraph (1) by the value obtained by paragraph (2) to obtain the percentage change, rounded to the nearest one-tenth of 1 percent.

(4) Increase or decrease to the nearest dollar the full market values contained in subdivision (a) by one-half of the percentage change determined by paragraph (3).

(c) Beginning January 1, 1986, and each year thereafter, the board shall determine the current value of timberland using the same procedure as described in subdivision (b), except that this adjustment shall be made to the prior year's adjusted values, and the five-year periodic immediate harvest values shall be successively one year more recent.

(d) The board shall certify the values determined pursuant to this section to the county assessors by November 30 of each year.

(e) The Legislature finds and declares that the foregoing values are consistent with the taxation of timberland used primarily for growing timber and that these values are consistent with the intent of subdivision (j) of Section 3 of Article XIII of the Constitution.

History.—Stats. 1977, Ch. 940, in effect January 1, 1978, substituted "subdivision (j) of Section 3 " for "Section 3j" in the third paragraph of subdivision (a). Stats. 1978, Ch. 1109, in effect September 26, 1978, substituted "for the 1977–78 fiscal year" for "and March 1 of each year thereafter, up to and including March 1, 1979," in the first paragraph of subdivision (a), and deleted the former third paragraph thereof; substituted subdivision (b) for former subdivision (b); added subdivisions (c), (d), and (e); relettered former subdivisions (c), (d), (e), (f), and (g) as (f), (g), (h), (i), and (j), respectively; and added subdivisions (k) and (*l***). Stats. 1979, Ch. 242, in effect July 10, 1979, substituted "and March 1 of each year thereafter, up to and including March 1, 1979" for "for the 1977–78 fiscal year", and added "per acre" after "valued" in subdivision (a); deleted former subdivisions (b), (c) and (d); and relettered subdivisions (e), (f), (g), (h), (i), (j), (k), and (***l***) as (b), (c), (d), (e), (f), (g), (h), and (i), respectively. Stats. 1982, Ch. 1489, in effect January 1, 1983, in addition to making a number of grammatical changes throughout this section, substituted "production" for "preserve" before each "zone", deleted "the provisions of" after "pursuant to" in the third sentence of subdivision (b), substituted "production" for "preserve" after "timberland" in the second sentence of subdivision (d)(2), and deleted "of this subdivision" after "paragraph (2)" in the second paragraph of subdivision (f). Stats. 1983, Ch. 1198, in effect January 1, 1984, substituted the first sentence of subdivision (a) and increased schedule values for "On March 1, 1977, and March 1 of each year thereafter, up to including March 1, 1979, timberland shall be valued per acre according to the following schedule:" and previous schedule values; substituted subdivisions (b), (c), and (d) for former subdivisions (b), (c), (d), (e), (f), (g), and (h); and relettered former subdivision (i) as subdivision (e). Stats. 1984, Ch. 634, in effect January 1, 1985, added "for the Redwood Region and Pine-mixed Conifer Region, and on January 1, 1985, for the Whitewood subzone of the Redwood Region," after "March 1, 1984," in the first sentence of subdivision (a); substituted "new schedule of values" for former values for Redwood Region and for Pine-mixed Conifer Region; added "For purposes of this section:" and subsections (1), (2) and (3) thereafter. Stats. 1997, Ch. 940 (SB 1105), in effect January 1, 1998, substituted "January 1" for "March 1" before "of each year" in the first sentence of subdivision (a), substituted "this" for "such" after "except that" in the first sentence of subdivision (c), and substituted "November 30" for "January 10" in the first sentence of subdivision (d).**

Note.—Secs. 2 and 3 of Stats. 1984, Ch. 634, provided no payment by state to local governments because of this act.

Modified productivity approach.—As used in subdivision (f)(3), "immediate harvest value" refers to both young growth and old growth, and "20 quarters" means 20 quarters. Thus, property tax rule 1025 was valid insofar as certain timberland values for the pine-mixed conifer region were based upon an immediate harvest value of both young growth and old growth, but it was invalid to the extent that such values were based upon such an immediate harvest value averaged for the previous 10 rather than 20 quarters. *Soper-Wheeler Co.* v. *State Board of Equalization,* 124 Cal.App.3d 913.

Unit valuation.—The phrase, "the same legal ownership" as used in property tax rule 41A(1) may be broadly interpreted so that various timber tracts recorded to different owners may be assessed as a unit once a parol partnership of the different record owners is factually established. *Cochran* v. *Board of Supervisors,* 85 Cal.App.3d 75.

434.6. **Overpayments of property taxes; refunds or credits.** [Repealed by Stats. 1991, Ch. 646, in effect January 1, 1992.]

435. **Valuation of timberland.** (a) In preparing the assessment roll for the 1984–85 fiscal year and each fiscal year thereafter, the assessor shall use as the value of each parcel of timberland the appropriate site value pursuant to Section 434.5 plus the value, if any, attributable to existing, compatible, nonexclusive uses of the land. Assessments of values attributable to compatible uses determined in accordance with this part are subject to the appeals procedure established by law for other assessments.

(b) Nothing in this article shall prevent the assessor in valuing timberland from taking into consideration the existence of any mines, minerals, and quarries in or upon the land being valued, including, but not limited to, geothermal resources and oil, gas, and other hydrocarbon substances.

(c) The provisions of this article shall not apply to any structure on the land being valued or to an area of reasonable size used as a site for approved compatible uses.

History.—Stats. 1977, Ch. 853, in effect September 17, 1977, added the subdivision letters, added second sentence to subdivision (a), and substituted "the sum of the values derived for each parcel pursuant to this section, to obtain the assessed value of each parcel" after "401 to" for "obtain its assessed value. Assessments of values attributable to compatible uses determined in accordance with this part are subject to the appeals procedure established by law for other assessments in subdivision (d)." Stats. 1978, Ch. 1207, in effect January 1, 1979, operative January 1, 1981, deleted subdivision (d). Stats. 1983, Ch. 1198, in effect January 1, 1984, substituted "1984–85" for "1977–78" before "fiscal" and "site value" for "grade value certified to him by the board," after "appropriate" in the first sentence of subdivision (a).

436. **Timber exempt from property taxation.** On the lien date for the 1977–78 fiscal year and thereafter, all timber on both privately and publicly owned lands shall be exempt from property taxation, including possessory interest taxation, and shall not be assessed for taxation purposes. Nothing herein shall preclude the assessment of trees standing on land not zoned as timberland production under this article for purposes of property taxation based on their aesthetic or amenity value.

History.—Stats. 1982, Ch. 1489, in effect January 1, 1983, substituted "production" for "preserve" after "timberland" in the second sentence.

437. **Addition to assessed value of a taxing agency.** Whenever the debt limit of a taxing agency is based wholly or in part on the assessed value of the agency, there shall be added to such assessed value the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code.

The assessed valuation equivalents for revenue amounts certified pursuant to Section 27423 of the Government Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the secured tax rate for the prior year.

History.—Stats. 1977, Ch. 853, in effect September 17, 1977, substituted "38905" for "38906" in the first paragraph. Stats. 1980, Ch. 1208, in effect January 1, 1981, substituted "38906" for "38905" after the second "Section" in the first paragraph and added the last paragraph. Stats. 1984, Ch. 678, in effect January 1, 1985, deleted "and distributed pursuant to Section 38906 of the Revenue and Taxation Code" after "Government Code" in the first paragraph; deleted "and distributed pursuant to Section 38905 of the Revenue and Taxation Code" after "Government Code" in the second paragraph; and deleted the former third paragraph.

Article 1.9. Historical Property *

439. **“Enforceably restricted” defined.** For the purposes of this article and within the meaning of Section 8 of Article XIII of the Constitution, property is ‘‘enforceably restricted’’ if it is subject to an historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

439.1. **“Restricted historical property” defined.** For purposes of this article ‘‘restricted historical property’’ means qualified historical property, as defined in Section 50280.1 of the Government Code, that is subject to a historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. For purposes of this section, ‘‘qualified historical property’’ includes qualified historical improvements and any land on which the qualified historical improvements are situated, as specified in the historical property contract. If the historical property contract does not specify the land that is to be included, ‘‘qualified historical property’’ includes only that area of reasonable size that is used as a site for the historical improvements.

History.—Stats. 1985, Ch. 965, substituted “, as defined in Section 50280.1 of the Government Code,” for “meeting the requirements of Article 3 (commencing with Section 5031) of Chapter 1 of Division 5 of the Public Resources Code after “property”, and substituted “a” for “an” after “subject to”. Stats. 1993, Ch. 831, in effect October 6, 1993, substituted “that” for “which” after “Code,” in the first sentence, and added the second and third sentences.

439.2. **Valuing enforceably restricted historical property.** When valuing enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value that restricted historical property by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available, the income shall be the fair rent that can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental

* Article 1.9 was added by Stats. 1977, Ch. 1040, in effect January 1, 1978. Purpose of this article is to implement Proposition 7 (Res. Ch. 198, Stats. 1974) on ballot for the Primary Election of June 8, 1976 which amended Section 8 of Article XIII of the California Constitution.

Note—Section 6, Stats. 1977, Ch. 1040, provided that the state shall not be required to provide subventions for revenues lost to a city, county, and county by reason of such city, county or city and county acting pursuant to the provisions of this act. Sec. 7 provided Bd. of Equal. to report to Legislature on or before December 31, 1980 evaluating the effect of this act.

payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.

(3) If the parties to an instrument that enforceably restricts the property stipulate therein an amount that constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For purposes of this section income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, that the property can be expected to yield to an owner-operator annually on the average from any use of the property permitted under the terms by which the property is enforceably restricted.

Expenditures shall be any outlay or average annual allocation of money or money's worth that can be fairly charged against the revenue expected to be received during the period used in computing the revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the property, property taxes, corporation income taxes, or corporation franchise taxes based on income.

(b) The capitalization rate to be used in valuing owner-occupied single family dwellings pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest ¼ percent.

(2) A historical property risk component of 4 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(c) The capitalization rate to be used in valuing all other restricted historical property pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that

was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest ¼ percent.

(2) A historical property risk component of 2 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(d) Unless a party to an instrument that creates an enforceable restriction expressly prohibits the valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

(e) The value of the restricted historical property shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b) or (c).

(f) The ratio prescribed in Section 401 shall be applied to the value of the property determined in subdivision (d) to obtain its assessed value.

History.—Stats. 1984, Ch. 678, in effect January 1, 1985, deleted "the board for purposes of surveys required by Section 1815 of this code and" after "property," in the first sentence. Stats. 1993, Ch. 831, in effect October 6, 1993, substituted "that" for "such" and "that" for "which" throughout text; substituted "the" for "such" after "computing" in the first sentence of the third paragraph of paragraph (3) of subdivision (a); substituted "A" for "An" before "historical" in paragraphs (2) of subdivision (b) and (c); added subdivision (d); and relettered former subdivisions (d) and (e) as (e) and (f), respectively. Stats. 1996, Ch. 1087, in effect January 1, 1997, substituted "Federal Housing Finance Board" for "Federal Home Loan Bank Board" after "determined by the" in paragraph (1) of subdivisions (b) and (c).

439.3. **Valuing enforceably restricted historical property where notice of nonrenewal given.** Notwithstanding any provision of Section 439.2 to the contrary, if either the county or city or the owner of restricted historical property subject to contract has served notice of nonrenewal as provided in Section 50282 of the Government Code, the county assessor shall value that restricted historical property as provided in this section.

(a) Following the hearing conducted pursuant to Section 50285 of the Government Code, subdivision (b) shall apply until the termination of the period for which the restricted historical property is enforceably restricted.

(b) The board or assessor in each year until the termination of the period for which the property is enforceably restricted shall do all of the following:

(1) Determine the full cash value of the property pursuant to Section 110.1. If the property is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if the property were free of contractual restriction. If the property will be subject to a use for which this chapter provides a special restricted assessment, the value of the property shall be determined as if it were subject to the new restriction.

(2) Determine the value of the property by the capitalization of income method as provided in Section 439.2 and without regard to the fact that a notice of nonrenewal or cancellation has occurred.

(3) Subtract the value determined in paragraph (2) of this subdivision by capitalization of income from the full cash value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 439.2, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the period for which the property is enforceably restricted.

(5) Determine the value of the property by adding the value determined by the capitalization of income method as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratios prescribed in Section 401 to the value of the property determined in paragraph (5) to obtain its assessed value.

History.—Stats. 1984, Ch. 678, in effect January 1, 1985, deleted "the board, for purposes of surveys required by Section 1815 and" after "Code," in the first sentence. Stats. 1993, Ch. 831, in effect October 6, 1993, substituted "that" for "such" after "value" in the first sentence; added "do all of the following:" after "shall" in subdivision (b); substituted "pursuant to Section 110.1." for "as if it were not subject to an enforceable restriction;" after "property" in paragraph (1) of subdivision (b); and added the second and third sentences thereto; substituted "." for ";" after "occurred" in paragraph (2) of subdivision (b); substituted "." for "of this subdivision;" after "(1)" in paragraph (3) of subdivision (b); deleted "of this subdivision" after "(3)" and substituted "." for ";" after "restricted" in paragraph (4) of subdivision (b); deleted "of this subdivision" after "(2)" and substituted "." for "of this subdivision; and" after "(4)" in paragraph (5) of subdivision (b); and deleted "of this subdivision" after "(5)" in paragraph (6) of subdivision (b).

439.4. **Valuing property under this article.** No property shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 439 is signed, accepted and recorded on or before the lien date for the fiscal year in which the valuation would apply.

Article 2. Information From Taxpayer

441. **Property statement; other information.** (a) Each person owning taxable personal property, other than a manufactured home subject to Part 13 (commencing with Section 5800), having an aggregate cost of one hundred thousand dollars ($100,000) or more for any assessment year shall file a signed property statement with the assessor. Every person owning personal property that does not require the filing of a property statement or real property shall, upon request of the assessor, file a signed property statement. Failure of the assessor to request or secure the property statement does not render any assessment invalid.

(b) The property statement shall be declared to be true under the penalty of perjury and filed annually with the assessor between the lien date and 5 p.m. on April 1. The penalty provided by Section 463 applies for property statements not filed by May 7. If May 7 falls on a Saturday, Sunday, or legal holiday, a property statement that is mailed and postmarked on the next business day shall be deemed to have been filed between the lien date and 5 p.m. on May 7. If, on the dates specified in this subdivision, the county's offices are closed for the entire day, that day is considered a legal holiday for purposes of this section.

(c) The property statement may be filed with the assessor through the United States mail, properly addressed with postage prepaid. For purposes of determining the date upon which the property statement is deemed filed with the assessor, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application, shall control. This subdivision shall be applicable to every taxing agency, including, but not limited to, a chartered city and county, or chartered city.

(d) At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding his or her property or any other personal property located on premises he or she owns or controls. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

(e) In the case of a corporate owner of property, the property statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign the statements on behalf of the corporation.

(f) In the case of property owned by a bank or other financial institution and leased to an entity other than a bank or other financial institution, the property statement shall be submitted by the owner bank or other financial institution.

(g) The assessor may refuse to accept any property statement he or she determines to be in error.

(h) If a taxpayer fails to provide information to the assessor pursuant to subdivision (d) and introduces any requested materials or information at any

assessment appeals board hearing, the assessor may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of the continuance.

(i) Notwithstanding any other provision of law, every person required to file a property statement pursuant to this section shall be permitted to amend that property statement until May 31 of the year in which the property statement is due, for errors and omissions not the result of willful intent to erroneously report. The penalty authorized by Section 463 shall not apply to an amended statement received prior to May 31, provided the original statement is not subject to penalty pursuant to subdivision (b). The amended property statement shall otherwise conform to the requirements of a property statement as provided in this article.

(j) This subdivision shall apply to the oil, gas, and mineral extraction industry only. Any information that is necessary to file a true, correct, and complete statement shall be made available by the assessor, upon request, to the taxpayer by mail or at the office of the assessor by February 28. For each business day beyond February 28 that the information is unavailable, the filing deadline in subdivision (b) shall be extended in that county by one business day, for those statements affected by the delay. In no case shall the filing deadline be extended beyond June 1 or the first business day thereafter.

(k) The assessor may accept the filing of a property statement by the use of electronic media. In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), property statements filed using electronic media shall be authenticated pursuant to methods specified by the assessor and approved by the board. Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.

History.—Stats. 1947, p. 1701, in effect September 19, 1947, substituted "May" for "June." Stats. 1963, p. 4075, in effect September 20, 1963, added subdivision (b). Stats. 1966, p. 660 (First Extra Session), in effect October 6, 1966, added "upon request of the assessor," substituted "the lien date" for "noon on the first Monday in March", and deleted the last sentence providing for the furnishing of information, in subdivision (a), and added subdivisions (c), (d), and (e). Stats. 1967, p. 3401, in effect November 8, 1967, substituted everything down to subdivision (b) for prior subdivision (a). Stats. 1968, p. 2144, in effect November 13, 1968, revised and relettered the subdivisions; and, added the second sentence of subdivision (b) referring to Section 463, added subdivision (b)(1), and added "of nonreceipt of the property statement within the appointed time" in subdivision (b)(2), Stats. 1970, p. 1028, in effect November 23, 1970, substituted "shall file a signed property statement with the assessor" for "other than household furnishings and personal effects, shall file a written property statement, reporting such other property," in the first sentence; deleted "written" before the first "property"; substituted "signed" for "written" before the second "property" in the second sentence; added the third sentence to the first paragraph; deleted a second paragraph defining household furnishings; and substituted "declared to be true under penalty of perjury and filed" for "filed under oath" in subdivision (a). Stat. 1971, p. 3455, in effect March 4, 1972, substituted "Friday" for "Monday" in subdivisions (a) and (b). Stats. 1980, Ch. 285, in effect June 30, 1980, operative July 1, 1980, added ", other than a mobilehome subject to Part 13 (commencing with Section 5800)," after "personal property" in the first sentence of paragraph one. Stats. 1981, Ch. 361, in effect January 1, 1982, deleted "o'clock" before "p.m." in the second sentence of, added ", or by first-class mail, properly addressed with postage prepaid," after "registered mail" and added the second sentence in subsection 2 of, and added the balance of subsection (3) after the first "notice," in subdivision (b). Stats. 1990, Ch. 126, in effect June 11, 1990, added "all of the following apply" after "if" in subdivision (b), substituted a period for "; and" in paragraphs 1 and 2 of subdivision (b), substituted "the" for "such" before "notice" twice in paragraph (2) and three times in paragraph (3) of subdivision (b), added "or her" after "his" and added "or any other . . . controls" after "her property" in the first sentence of subdivision (d), and added "or she" after "he" in subdivision (f). Stats. 1992, Ch. 523, in effect January 1, 1993, substituted "any" for "such" after "lien date and" in subdivision (a); added subdivision (f); and relettered former subdivision (f) as subdivision (g). Stats. 1993, Ch. 173, in effect January 1, 1994, substituted "Each" for "Every" before "person owning" and added "for the initial assessment year . . . subsequent assessment year" after "or more" in the first sentence of the first paragraph; and substituted "the" for "such" after "sign" in subdivision (e). Stats. 1995, Ch. 498, in effect January 1, 1996, added

subdivision (h). Stats. 1996, Ch. 1087, in effect January 1, 1997, deleted "thirty thousand dollars ($30,000) or more for the initial assessment year or an aggregate cost of", after "an aggregate cost of", and deleted "subsequent" after "any" in the first sentence of subdivision (a). Stats. 1999, Ch. 334 (AB 704), in effect January 1, 2000, lettered the former first paragraph as subdivision (a) and substituted "that" for "which" before "does not", added a comma after "shall", and added a comma after "assessor" in the second sentence therein; relettered former subdivision (a) as subdivision (b), added "annually" after "and filed", and deleted "the last Friday in May, annually, or between the lien date and any earlier time as the assessor may appoint" after "5 p.m. on" in the first sentence therein; deleted former subdivision (b), which provided that "If the assessor appoints a time other than the last Friday in May, it shall be no earlier than April 1. In this event the penalty provided by Section 463 shall apply if the property statement is not filed with the assessor by 5 p.m. on the last Friday in May or if all of the following apply: (1) The property statement is not filed within the time appointed by the assessor. (2) The assessor has given notice by certified or registered mail, or by first-class mail, properly addressed with postage prepaid, no earlier than 15 days after the time appointed by the assessor of nonreceipt of the property statement within the appointed time. If the notice is given by first-class mail, the assessor shall obtain a certificate of mailing issued by the United States Postal Service verifying the fact and date of mailing of the notice. (3) The property statement has not been filed with the assessor within 15 days following the date of receipt of the notice, if the notice is given by certified or registered mail, or within 20 days following the date shown on the certificate of mailing, if the notice is given by first-class mail."; added subdivision (b); added the second sentence in subdivision (c); and added subdivisions (i) and (j). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "manufactured home" for "mobilehome" after "other than a" in the first sentence, and added subdivision (k).

Note.—Stats. 1971, p. 3455, provided that the act shall apply for the 1972–1973 assessment year and assessment years thereafter.

Note.—Section 22 of Stats. 1980, Ch. 285, provided no payment by state to local governments because of this act.

Note.—Section 3 of Stats. 1999, Ch. 334 (AB 704), provides that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

Construction.—The language "other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duty" in subdivision (d) is a broad grant of power to the assessor to demand information and does not support any distinction between raw and interpretative data, particularly in the context of the assessment and appraisal of oil and gas interests whose values are constantly changing. "Essential" does not mean strict necessity; in the context of the statute, it is used in an expansive sense. *Roberts* v. *Gulf Oil Corp.,* 147 Cal.App.3d 770.

Informality.—A letter written by a receiver to the assessor describing the property in his hands may form the basis of a valid assessment. *City of Los Angeles* v. *Los Angeles City Water Co.,* 137 Cal. 699.

Valuation not required.—The taxpayer is not required to affix a valuation to any part of his property. *Clunie* v. *Siebe,* 112 Cal. 593.

Failure to furnish statement.—The mailing of a letter by a taxpayer enclosing a statement of his property does not relieve him of neglect to furnish a statement if the presumption that the letter was received in due course is overcome by the testimony of the assessor that the statement was never received. *Grade* v. *Mariposa County,* 132 Cal. 75.

Property omitted from statement.—The power of the assessor is not limited by the taxpayer's verified statement but he may assess upon discovery property omitted therefrom, independently of the power given him by other sections to make penal assessments (see Sections 501 and 503, post) and without first subpoenaing and examining the taxpayer under Section 454. *People* v. *National Bank of D. O. Mills,* 123 Cal. 53; *Savings & Loan Society* v. *San Francisco,* 131 Cal. 356; *San Francisco* v. *La Societe etc.,* 131 Cal. 612; *Kern Valley Water Co.* v. *Kern County,* 137 Cal. 511. If the statement has been filed by the taxpayer, the assessor perhaps cannot *penally* assess any property unless the taxpayer has been subpoenaed. See *People* v. *National Bank of D. O. Mills,* supra at 58. The power and duty of the assessor to assess newly discovered property exists as long as the assessment roll is under his control. *San Francisco* v. *La Societe, etc.* supra. Absent physical evidence, an assessor is not required to accept a valuation formula approximating the proper value of fixtures to be reported on the statement which he has no way of verifying. *May Department Stores Co.* v. *Los Angeles County,* 196 Cal.App.3d 755.

Assessment appeal hearing.—As counties are expressly authorized to adopt rules for assessment appeal hearings, a county rule consistent with this section is not preempted by state law; and an assessor may prepare for such a hearing by demanding information from the taxpayer pursuant to subdivision (d) hereof. *State Board of Equalization* v. *Ceniceros,* 63 Cal.App.4th 122.

Statement as evidence.—Although the statement is not evidence of the value of the property (*San Jose etc., R. R. Co.* v. *Mayne,* 83 Cal. 566), it is admissible as evidence of what property was then claimed to be owned by the party making the statement. *Woolridge* v. *Boardman,* 115 Cal. 74. The description in an assessment is presumed to be identical with that furnished in the statement unless the contrary is alleged. *Dear* v. *Varnum,* 80 Cal. 86.

Copyright.—There can be no copyright of any particular arrangement of the matter which the assessor is required to deliver to each person as a blank form of property statement. *Carlisle* v. *Colusa County,* 57 F. 979.

Inadequate description.—There is no presumption, in a quiet title action brought by a property owner against a purchaser at a tax sale, that an inadequate description in an assessment and tax deed were furnished by the property owner under this article, nor is the property owner estopped from asserting the invalidity of the assessment and tax deed. *Sinai* v. *Mull,* 80 Cal.App.2d 277.

Extent of assessor's duty.—A county assessor must give school districts information of the value of tax-assessed property within districts by May 15, as required by Education Code section 20811, although information regarding property assessed by the State Board of Equalization is unavailable by reason of the board not being required to complete its work thereon until the first Monday of August and although taxpayers may file property statements upon which property assessments are partially based between the first Monday of March and the last Monday in May. *Board of Education* v. *Watson,* 63 Cal.2d 829.

Owners of aircraft.—See Section 5365.

441.1. **Property statement; life insurance company.** (a) Prior to July 1, 1996, each domestic life insurance company that owns real property in the county in a separate account established pursuant to Section 10506 of the Insurance Code, and each foreign life insurance company that owns real property in the county in a separate account established pursuant to the corresponding insurance laws of its state of domicile, shall file a property statement with the assessor that does all of the following:

(1) Identifies all real property in the county that is held on January 1, 1996, by the insurance company in separate accounts and all of the separate accounts in which the real property is held.

(2) Describes the parties to, the date of, and the amount paid with respect to, any transfer of a property interest to or from a separate account. In complying with the preceding sentence, the person shall indicate the name, address, and contact person of the relevant separate account, and shall supply any other information, as may be requested by the assessor, that is relevant to the assessment function and is information of a type described in subdivision (b) of Section 480.7. The property statement shall include a description, as required by this paragraph, of any transfer of a real property interest that occurred on or after January 1, 1985, and before January 1, 1996.

(b) (1) A property statement filed pursuant to subdivision (a) shall be declared to be true under penalty of perjury and shall be signed by either an officer of the filing life insurance company, or by an employee or agent of that insurance company who has been designated in writing by the company's board of directors to sign the statement on the company's behalf.

(2) A property statement filed pursuant to subdivision (a) shall be filed with the assessor either in person or through the United States mail, properly addressed with the postage prepaid.

(3) Any life insurance company required by subdivision (a) to file a property statement that fails to file that statement by July 1, 1996, shall be subject to a penalty of one thousand dollars ($1,000) in addition to any other penalty prescribed by law.

(4) On or before July 1, 1998, the assessor shall compile a list of life insurance companies that have filed a property statement pursuant to subdivision (a). The list shall consist of the name of each company and the date of filing. Notwithstanding Section 408 or 451, or any other provision of law, the list shall be a public record under the provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

History.—Added by Stats. 1995, Ch. 933, in effect January 1, 1996. Stats. 1997,Ch. 94 (SB 76) in effect January 1, 1998, added paragraph (4) of subdivision (b) and substituted "remain . . . as of that date" for "become inoperative onJuly 1, 1997, and, as of January 1, 1998," after "shall", substituted "is enacted" for "becomes operative on or" after "statute, that", substituted "2004" for "1998" after "before January 1," and substituted "that date." for "the dates on which it becomes inoperative and is repealed." after "extends" in the first sentence of subdivision (c).

441.5. **Property Statement; Attachments.** In lieu of completing the property statement as printed by the assessor pursuant to Section 452, the information required of the taxpayer may be furnished to the assessor as attachments to the property statement provided that the attachments shall be in a format as specified by the assessor and: (a) one copy of the property statement, as printed by the assessor, is signed by the taxpayer and carries appropriate reference to the data attached; or (b) the statement is filed electronically and authenticated as provided in subdivision (k) of Section 441.

History.—Added by Stats. 1982, Ch. 7, in effect January 1, 1983. Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted ": (a)" for "that" after "by the assessor and", substituted "signed" for "executed" after "the assessor is", and substituted "; or (b) the statement . . . Section 441" for a period after "to the data attached" in the first sentence of the first paragraph.

442. **Contents of statement.** The property statement shall show all taxable property owned, claimed, possessed, controlled, or managed by the person filing it and required to be reported thereon.

Every person owning, claiming, possessing, controlling or managing property shall furnish any required information or records to the assessor for examination at any time.

The requirements of this article shall be satisfied with respect to property belonging to others for which the declarer has contractual property tax obligations if the declarer includes that property in the property statement, submits the statement timely, and includes in the statement all information required in the statement pertaining to property belonging to others.

Property which is now or hereafter the subject of a contract designated as a lease wherein the property being leased qualifies for the property tax exemption provided for by subdivision (d) or (e) of Section 3 of Article XIII of the California Constitution, and the lessee has the option of acquiring the property leased at the end of the lease term for one dollar ($1), or any other nominal consideration, shall be regarded as owned by the lessee and shall not be required to be shown on any property statement of the lessor.

History.—Stats. 1970, p. 1029, in effect November 23, 1970, revised this section to include references to firms, corporations and corporate officers. Stats. 1982, Ch. 7, in effect January 1, 1983, added the third paragraph. Stats. 1987, Ch. 703, in effect January 1, 1988, added the fourth paragraph.

Construction.—The language "any required information or records" is a broad grant of power to the assessor to demand information and does not support any distinction between raw and interpretative data, particularly in the context of the assessment and appraisal of oil and gas interests whose values are constantly changing. *Roberts* v. *Gulf Oil Corp.,* 147 Cal.App.3d 770.

Failure to furnish information.—It is the duty of a person possessing property for safe keeping to furnish the assessor with any information in his possession which will enable the assessor to determine the owner of the property, failing which, the assessor may assess the property to the holder as agent of the unknown parties. *S. W. Straus & Co.* v. *Los Angeles County,* 128 Cal.App. 386.

An assessor may demand of a warehouseman who has in his possession personal property of another the name of the owner and a description of the property, and upon his refusal to give such information an injunction to prevent the assessment of the property to him is properly denied. *Bode* v. *Holtz,* 65 Cal. 106.

Cf. *Weyse* v. *Crawford,* 85 Cal. 196, in which the warehouseman furnished an unsworn statement of the property in storage and of the persons to whom warehouse receipts were originally issued. It was held that the property was not assessable to the warehouseman. Cf. *Bank of Willows* v. *Glenn County,* 155 Cal. 352, 358, to the effect that former Political Code Section 3629 had reference only to the return required of the taxpayer and not to the duty of the assessor in making the assessment.

Managing agent.—A mine superintendent is equivalent to a managing agent and may be required to make a return of the property of his company. *Lake County* v. *Sulphur Bank etc. Co.,* 68 Cal. 14.

Possessory interests in personal property.—No provision is made for declaring or assessing a possessory interest in tax-exempt personal property. *General Dynamics Corp.* v. *Los Angeles County,* 51 Cal.2d 59.

443. **Situs.** The property statement shall also show:

(a) The county where the property is taxable.

(b) If taxable in the county where the statement is made, any city or revenue district where it is situated.

443.1. **Filing duplicate statement.** If the property statement is timely filed in duplicate with a request that the assessor mark on the duplicate statement opposite each category of property reported on the statement, the full value of such category of property as determined by the assessor, the assessor shall perform such service and shall return the duplicate to the person filing it no later than July 15 of the year in which it was filed.

History.—Added by Stats. 1969, p. 1716, in effect November 10, 1969. Stats. 1974, Ch. 311, p. 607, in effect January 1, 1975, substituted "full value" for "full cash value".

445. **Property statements; contents.** The property statement shall show a description of property, in the detail required. Such required detail may include the cost of the property if the information is within the knowledge of the assessee or is available to him from his own or other records.

History.—Stats. 1959, p. 3246, in effect September 18, 1959, deleted "also" following "shall" and added the last sentence. Stats. 1970, p. 1029, in effect November 23, 1970, deleted "personal" before the second "property" in the first sentence and before "property" in the second sentence, and deleted "by the assessor. Except as to the household furnishings and personal effects of householders," between the present first and second sentences.

448. **Tax day.** The property statement shall show all information as of 12:01 a.m. on the lien date.

History.—Stats. 1967, p. 2243, operative January 1, 1968, changed time from "noon" to "12:01" and substituted "lien date" for "first Monday in March."

Note.—Section 43002 of the Government Code, as amended in 1967, provides that lien date is first day of March.

451. **Information held secret.** All information requested by the assessor or furnished in the property statement shall be held secret by the assessor. The statement is not a public document and is not open to inspection, except as provided in Section 408.

History.—Stats. 1966, p. 661 (First Extra Session), in effect October 6, 1966, deleted "public" before the word "inspection", and added "except as provided in Section 408." Stats. 1971, p. 3519, in effect March 4, 1972, substituted "requested" for "required" in the first sentence.

Exceptions.—The primary exceptions to the rule of confidentiality are ''market data'' (§ 408(b)), the assessor's public list of transfers of property interests (§ 408.1), and information ordered disclosed by a court in a proceeding initiated by a taxpayer to challenge the legality of his assessment (§ 408(b)). *Chanslor-Western Oil and Development Co.* v. *Cook,* 101 Cal.App.3d 407. An affidavit submitted to an assessor to claim a welfare exemption is voluntarily submitted, is a document separate from the property statement, and is not confidential under this section. *Gallagher* v. *Boller,* 231 Cal.App.2d 482.

Disclosure in response to subpoena.—This section probably precludes the disclosure of information or the production of the property statement in response to a subpoena as well as in other ways. See Code of Civil Procedure, Section 1881, subdivision (5), and *in re Valencia Condensed Milk Co.,* 240 F. 310.

452. **Property statement forms.** For the assessment year beginning in 1968 and each assessment year thereafter, the board shall prescribe in detail the content of property statements, including the specific wording, to be used by all assessors in the several counties, and cities and counties, and shall notify assessors of those specifications no later than the August 31 prior to the tax lien date on which they become effective. Each assessor shall incorporate the specifications on the exact form he or she proposes to use and submit that form to the board for approval prior to use. The property statement shall not include any question that is not germane to the assessment function.

History.—Stats. 1966, p. 661 (First Extra Session), in effect October 6, 1966, deleted "The board shall prescribe the forms of blanks for property statements.", and added all of the present language. Stats. 1998, Ch. 591 (SB 2237), in effect January 1, 1999, substituted "those specifications no later than August 31" for "such specifications at least six months" after "assessors of" in the first sentence; added "or she" after "he" and substituted "that" for "such" after "submit" in the second sentence; and substituted "that" for "which" after "question" in the third sentence.

453. **Affidavits.** The assessor may request any person found within his county to make and subscribe an affidavit, showing his name, place of residence or place of business, and whether he is the owner of any taxable property.

History.—Stats. 1971, p. 3519, in effect March 4, 1972, substituted "request" for "require" in the first sentence.

454. **Examinations.** The assessor may subpena and examine any person in relation to:

(a) any statement furnished him, or

(b) any statement disclosing property assessable in his county that may be stored with, possessed, or controlled by the person.

He may do this in any county where the person may be found, but shall not require the person to appear before him in any other county than that in which the subpena is served.

455. **Parcels; sold to the state.** The assessor shall not combine parcels into a single assessment when any of those parcels have been declared to be tax defaulted for delinquent taxes. This section does not apply to subdivided land reverted to acreage in accordance with provisions of the Subdivision Map Act and local ordinances.

History.—Added by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981. Stats. 1985, Ch. 316, effective January 1, 1986, substituted "of those" for "such" after "any", and substituted "declared to be tax defaulted" for "sold to the state" in the first sentence.

456. **Demand for description.** If the assessor has not received from the owner of a tract of land a legal description or a description which geographically locates the property, he may require such a description from the owner or his agent, or, in case they cannot be found or are unknown, the person in possession. Such legal description may be by reference to the assessor's map and parcel number.

History.—Stats. 1970, p. 1029, in effect November 23, 1970, deleted "the property statement" after "received" and substituted "a legal . . . the property he" for "or if the statement does not legally describe the land, the assessor" in the first sentence. Stats. 1971, p. 3519, in effect March 4, 1972, substituted "request" for "demand" in the first sentence. Stats. 1973, Ch. 1190, p. 2503, in effect January 1, 1974, substituted "require" for "request" in the first sentence, and added the second sentence. Stats. 1974, Ch. 186, p. 374, in effect January 1, 1975, corrected clerical error.

457. **Citation.** If the owner, agent, or person in possession neglects to furnish the assessor with the description within 10 days after the request, the assessor shall cite him to appear before the superior court of the county where the land is situated within five days after service of the citation. On the day named in the citation, to the exclusion of all other business, the court shall proceed to hear his return and answer to the citation.

History.—Stats. 1971, p. 3519, in effect March 4, 1972, substituted "request" for "demand" in the first sentence.

458. **Survey on court order.** If the court finds the land has not been surveyed or divided so that it can be legally described, the court shall, by order duly entered in open court, direct the county surveyor to make a survey, and define the boundaries and location of the land by parcels not exceeding 640 acres each, and deliver it to the assessor.

459. **Expense of survey.** The expense of making the survey and description by the county surveyor is a lien on the land, and, when approved by the superior court, shall be certified by it to the board of supervisors who shall, by resolution, direct the auditor to add the expense to the taxes on the land, to be collected like other taxes.

History.—Original section provided that court certify expense to tax collector and that the same be added to the taxes. Stats. 1941, p. 3111, in effect September 13, 1941, amended section to read as at present.

459.5. **Applicability of Sections 457, 458, and 459.** Sections 457, 458, and 459 are applicable when the owner, his agent, or person in possession neglects to furnish the assessor of any taxing agency, including a taxing agency having its own system for the levying and collection of taxes or assessments, with a requested description of any tract of land.

History.—Added by Stats. 1947, p. 2729, in effect September 19, 1947. Stats. 1970, p. 1030, in effect November 23, 1970, substituted "a requested" for "the legal" in the first sentence.

460. **Unknown owners.** If the owner or claimant of any property, not listed by another person, is absent or unknown, the assessor shall estimate its value.

461. **False statement.** Every person who willfully states anything which he knows to be false in any oral or written statement, not under oath, required or authorized to be made as the basis of imposing any tax or assessment, is guilty of a misdemeanor and upon conviction thereof may be punished by imprisonment in the county jail for a period not exceeding six months or by a fine not exceeding one thousand dollars ($1,000), or by both.

History.—Stats. 1966, p. 661 (First Extra Session), in effect October 6, 1966, added the last clause following "misdemeanor." Stats. 1983, Ch. 1092, in effect September 27, 1983, operative January 1, 1984, substituted "one thousand dollars ($1,000)" for "five hundred dollars ($500)" after "exceeding".

462. **Refusal to give information.** Every person is guilty of a misdemeanor who, after written request by the assessor, does any of the following:

(a) Refuses to make available to the assessor any information which is required by subdivision (d) of Section 441 of this code.

(b) Gives a false name.

(c) Willfully refuses to give his true name.

Upon conviction of any offense in this section, the defendant may be punished by imprisonment in the county jail for a period not exceeding six months or by a fine not exceeding one thousand dollars ($1,000), or by both.

If the defendant is a corporation, it may be punished by an additional fine of two hundred dollars ($200) for each day it refuses to comply with the provisions of this section, up to a maximum of twenty thousand dollars ($20,000).

History.—Stats. 1966, p. 661 (First Extra Session), in effect October 6, 1966, substituted "written demand" for "proper demand", changed subdivisions (a), (b), (c), and (d), deleted former subdivision (b), and added the last two paragraphs. Stats. 1971, p. 3520, in effect March 4, 1972, substituted "request" for "demand" in the first sentence. Stats. 1983, Ch. 1092, in effect September 27, 1983, operative January 1, 1984, substituted "one thousand dollars ($1,000)" for "five hundred dollars ($500)." After "exceeding" in the second paragraph, and substituted "two hundred dollars ($200)" for "one hundred dollars ($100)" after "fine of" and "twenty thousand dollars ($20,000)" for "ten thousand dollars ($10,000)" after "maximum of" in the third paragraph.

463. **Penalty for failure to file statement.** If any person who is required by law or is requested by the assessor to make an annual property statement fails to file an annual property statement within the time limit specified by Section 441 or make and subscribe the affidavit respecting his or her name and place of residence, a penalty of 10 percent of the assessed value of the unreported taxable tangible property of that person placed on the current roll shall be added to the assessment made on the current roll.

Notice of any penalty added to the secured roll pursuant to this section shall be mailed by the assessor to the assessee at his or her address as contained in the official records of the county assessor.

If the assessee establishes to the satisfaction of the county board of equalization or the assessment appeals board that the failure to file the property statement within the time required by Section 441 was due to reasonable cause and not due to willful neglect, it may order the penalty abated, provided the assessee has filed with the county board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

If the penalty is abated it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

History.—Added by Stats. 1967, p. 3336, in effect November 8, 1967. Stats. 1968, p. 2145, in effect November 13, 1968, completely revised this section, converting it to a penalty for failure to file and adding the second and third paragraphs. Stats. 1971, p. 3520, in effect March 4, 1972, substituted "request" for "demand" in the first sentence. Stats. 1973, Ch. 842, p. 1507, in effect January 1, 1974, substituted "Friday" for "Monday" in the first paragraph. Stats. 1999, Ch. 334 (AB 704), in effect January 1, 2000, deleted "it with the assessor by 5 p.m. on the last Friday in May, or if, after written request by the assessor, any person fails to file," after "fails to file", added "or her" after "respecting his", and substituted "that" for "such" after "tangible property of" in the first sentence of the first paragraph, and added "or her" after "assessee at his" in the first sentence of the second paragraph.

Note.—Section 3 of Stats. 1999, Ch. 334 (AB 704), provides that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

464. **Disposition.** All moneys recovered by the assessor under Section 463 shall be paid into the county treasury.

History.—Stats. 1966, p. 662 (First Extra Session), in effect October 6, 1966, substituted "All moneys" for "One-half of all moneys" and deleted the last clause permitting the assessor to retain the remainder of the moneys recovered.

465. **Destroying documents.** (a) Except as provided in subdivision (b), the assessor may destroy any document when six years have elapsed since the lien date for the tax year for which that document was obtained.

Documents may be destroyed when three years have elapsed since the lien date described in the preceding sentence, if the documents have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents.

(b) Affidavits claiming an exemption, for the first time, pursuant to Sections 254.5, 257, and 277 may be destroyed by the assessor as follows:

(1) Six years after the lien date of the tax year for which the exemption was last granted.

(2) Three years after the lien date described in paragraph (1) if the documents have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents.

History.—Stats. 1966, p. 662 (First Extra Session), in effect October 6, 1966, substituted "seven years" for "four years." Stats. 1968, p. 1462, in effect November 13, 1968, added proviso allowing destruction after three years. Stats. 1998, Ch. 583 (SB 1103), in effect January 1, 1999, substituted "six" for "seven" after "taxpayers when", substituted "that" for "such" after "for which", deleted ", provided, however, that such" after "obtained"; and created the second sentence with the balance of the former first sentence after "obtained", substituted "the lien date if the" for "such lien date when such" after "elapsed since" and added ", microfiched, imaged, or otherwise preserved on a medium that provides access to the documents" after "microfilmed" therein. Stats. 2002, Ch. 214 (SB 2086), in effect January 1, 2003, designated the former first paragraph as subdivision (a); substituted "Except as provided in subdivision (b), the" for "The" before "assessor", deleted "containing information obtained from taxpayers" after "any document", substituted "tax year" for "taxes" after "date for the", and substituted "document" for "information" after "that" in the first sentence therein; substituted "Documents" for "Those documents" before "may be destroyed", and added "described in the preceding sentence," after "lien date" in the second sentence therein; and added subdivision (b).

467. **Taxing agencies to file statements.** Annually, on or before March 20th, every taxing agency shall file with the assessor of the county in which the property is located statements containing legal descriptions of:

(a) All real estate which it has conveyed by deed to any person during the assessment year ending on the last day of December.

(b) All real estate owned by it on the preceding lien date and which it has agreed by contract in writing to sell and convey to any person. The statement covering property sold by contract shall show for each parcel of real estate the name and address of the purchaser, the consideration for the sale and conveyance thereof, and the amount of the consideration paid as of the lien date.

History.—Added by Stats. 1941, p. 2051 in effect June 6, 1941. Stats. 1967, p. 2243, in effect November 8, 1967, substituted "last day of February" for "first Monday in March" in subsection (a), and "lien date" for "first Monday in March" in subsection (b). Stats. 1995, Ch. 499, in effect January 1, 1996, added a colon after "descriptions of" in the first paragraph; and substituted "December" for "February" after "last day of" in subdivision (a).

468. **Failure to furnish information; assessor's remedy.** In addition to any other remedies described in this article, if any person fails to furnish any information or records required by this article upon request by the assessor, the assessor may apply to the superior court of the county for an order requiring the person who failed to furnish such information or records to appear and answer concerning his property before such court at a time and place specified in the order. The court may so order in any county where the person may be found, but shall not require the person to appear before the court in any other county than that in which the subpoena is served.

History.—Added by Stats. 1966, p. 662 (First Extra Session), in effect October 6, 1966. Stats. 1971, p. 3520, in effect March 4, 1972, substituted "request" for "demand" in the first sentence.

469. **Audit of profession, trade, or business.** (a) In any case in which locally assessable trade fixtures and business tangible personal property

owned, claimed, possessed, or controlled by a taxpayer engaged in a profession, trade, or business has a full value of four hundred thousand dollars ($400,000) or more, the assessor shall audit the books and records of that profession, trade, or business at least once each four years. If the board determines the value of property pursuant to Section 15640 of the Government Code, that determination may be deemed an audit by the assessor for purposes of this section.

(b) With respect to any audit of the books of a profession, trade, or business, regardless of the full value of the trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by the taxpayer, the following shall apply:

(1) Upon completion of an audit of the taxpayer's books and records, the taxpayer shall be given the assessor's findings in writing with respect to data that would alter any previously enrolled assessment.

(2) Equalization of the property by a county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division shall not preclude a subsequent audit and shall not preclude the assessor from levying an escape assessment in appropriate instances, but shall preclude an escape assessment being levied on that portion of the assessment that was the subject of the equalization hearing.

(3) If the result of an audit for any year discloses property subject to an escape assessment, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division, except in those instances when the property had previously been equalized for the year in question.

(4) If the audit for any particular tax year discloses that the property of the taxpayer was incorrectly valued or misclassified for any cause, to the extent that this error caused the property to be assessed at a higher value than the assessor would have entered on the roll had the incorrect valuation or misclassification not occurred, then the assessor shall notify the taxpayer of the amount of the excess valuation or misclassification, and the fact that a claim for cancellation or refund may be filed with the county as provided by Sections 4986 and 5096.

History.—Added by Stats. 1966, p. 662 (First Extra Session), in effect October 6, 1966. Stats. 1969, p. 2192, in effect November 10, 1969, added "before October 6, 1971, and" and "thereafter", Stats. 1970, p. 1070, in effect November 23, 1970, added the second sentence. Stats. 1973, Ch. 678, p. 1233, in effect January 1, 1974, added the last paragraph. Stats. 1974, Ch. 311, p. 608, in effect January 1, 1975, substituted "full value" for "full cash value" in the first sentence of the first paragraph. Stats. 1976, Ch. 357, p. 1007, in effect January 1, 1977, substituted "one hundred thousand dollars ($100,000)"for "fifty thousand dollars ($50,000)", and substituted "at least once each four years" for "before October 6, 1971, and at least once each four years thereafter" in the first sentence of the first paragraph; and deleted "or Chapter 1.5 (commencing with Section 1750)" after "Chapter 1 (commencing with Section 1601)" in the first sentence of the second paragraph. Stats. 1978, Ch. 732, in effect January 1, 1979, added the third and fourth paragraphs. Stats. 1979, Ch. 518, in effect January 1, 1980, added "trade fixtures and" after "assessable", and substituted "two" for "one" and "$200,000" for "$100,000" in the first sentence of the first paragraph. Stats. 1984, Ch. 678, in effect January 1, 1985, substituted "Section 15640 of the Government Code," for "Chapter 2 (commencing with Section 1815) of Part 3 of this division" after "pursuant to" in the second sentence of the first paragraph. Stats. 1991, Ch. 1148, in effect October 14, 1991, added a comma after "possessed", substituted "three hundred thousand dollars ($300,000)" for "two hundred

thousand dollars ($200,000)" after "full value of", and substituted "that" for "such" after "records of" in the first sentence of the first paragraph; substituted "that" for "such" after "Code," in the second sentence of the first paragraph; substituted "the" for "any such" after "portion of", substituted "that" for "which" after "assessment", and substituted "the" for "any such" after "subject of" in the second paragraph; substituted "the" for "such" after "instances when" in the third paragraph; and substituted "the" for "such" after "roll had" in the fourth paragraph. Stats. 1995, Ch. 498, in effect January 1, 1996, added "Upon completion of . . . previously enrolled assessment." as the second paragraph. Stats. 2000, Ch. 613 (SB 1844), in effect January 1, 2001, substituted "four" for "three" after "full value of" and substituted "($400,000)" for "($300,000)" after "thousand dollars" in the first sentence of the first paragraph. Stats. 2001, Ch. 238 (AB 645), in effect January 1, 2002, designated the first paragraph as subdivision (a), and added subdivision (b) and numbered the former second, third, fourth and fifth paragraphs as paragraphs (1), (2), (3) and (4), respectively, therein.

Note.—Section 3 of Stats. 1991, Ch. 1148, provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

Note.—Section 3 of Stats. 2001, Ch. 238 (AB 645) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Construction.—A taxpayer is entitled to administrative review if an audit reveals property that was underassessed or unassessed and hence, exposed to further taxation, regardless of whether or not an escape assessment is actually made. *Heavenly Valley* v. *El Dorado County Board of Equalization,* 84 Cal.App.4th 1323.

470. **Business records.** (a) Upon request of an assessor, a person owning, claiming, possessing or controlling property subject to local assessment shall make available at his or her principal place of business, principal location or principal address in California or at a place mutually agreeable to the assessor and the person, a true copy of business records relevant to the amount, cost and value of all property that he or she owns, claims, possesses, or controls within the county.

(b) In the case of a taxpayer that has its principal place of business outside of California and has been requested to make business records available pursuant to subdivision (a), that taxpayer may, as an alternative to making the requested business records available pursuant to the terms of that subdivision, pay the county the amount of reasonable and ordinary expenses for food, lodging, transportation, and other related items incurred by the assessor's representative, in traveling to the place outside California where the requested business records are available for examination and performing his or her official duties with respect to the examination of those records.

History.—Added by Stats. 1966, p. 662 (First Extra Session), in effect October 6, 1966. Stats. 1991, Ch. 1148, in effect October 14, 1991, added subdivision letter (a) before "Upon request", added "or her" after "his", added "or she" after "he", and added a comma after "possesses" in subdivision (a); and added subdivision (b).

Note.—Section 3 of Stats. 1991, Ch. 1148, provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

Construction.—The words "business records relevant to the amount, cost and value of all property" are broad grants of power to the assessor to demand information and do not support any distinction between raw and interpretative data. "Business records" is not limited to the meaning of the term in the Evidence Code as an exception to the hearsay rule. *Roberts* v. *Gulf Oil Corp.,* 147 Cal.App.3d 770.

471. **False statement; homeowners' exemption.** [Repealed by Stats. 1981, Ch. 261, in effect January 1, 1982.]

Article 2.5. Change in Ownership Reporting *

480. **Change in ownership statement.** [Repealed by Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982.]

480. **Change in ownership statement.** (a) Whenever there occurs any change in ownership of real property or of a manufactured home that is subject to local property taxation and is assessed by the county assessor, the transferee shall file a signed change in ownership statement in the county where the real property or manufactured home is located, as provided for in subdivision (c). In the case of a change in ownership where the transferee is not locally assessed, no change in ownership statement is required.

(b) The personal representative shall file a change in ownership statement with the county recorder or assessor in each county in which the decedent owned real property at the time of death that is subject to probate proceedings. The statement shall be filed prior to or at the time the inventory and appraisal is filed with the court clerk. In all other cases in which an interest in real property is transferred by reason of death, including a transfer through the medium of a trust, the change in ownership statement or statements shall be filed by the trustee (if the property was held in trust) or the transferee with the county recorder or assessor in each county in which the decedent owned an interest in real property within 150 days after the date of death.

(c) Except as provided in subdivision (d), the change in ownership statement as required pursuant to subdivision (a) shall be declared to be true under penalty of perjury and shall give that information relative to the real property or manufactured home acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and

* Article 2.5 was added by Stats. 1979, Ch. 242, in effect July 10, 1979.
Note.—Section 44 of Stats. 1979, Ch. 242, provided no payment by state to local governments because of this act.

the terms of the transaction. The change in ownership statement shall not include any question that is not germane to the assessment function. The statement shall contain a notice informing the transferee of the property tax relief available under Section 69.5. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

"Important Notice"

"The law requires any transferee acquiring an interest in real property or manufactured home subject to local property taxation, and that is assessed by the county assessor, to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed at the time of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death or, if the estate is probated, shall be filed at the time the inventory and appraisal is filed. The failure to file a change in ownership statement within 45 days from the date of a written request by the assessor results in a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or manufactured home, whichever is greater, but not to exceed two thousand five hundred dollars ($2,500) if that failure to file was not willful. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

(d) The change in ownership statement may be attached to or accompany the deed or other document evidencing a change in ownership filed for recording, in which case the notice, declaration under penalty of perjury, and any information contained in the deed or other transfer document otherwise required by subdivision (c) may be omitted.

(e) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed with the recorder at the time of recordation. However, the recordation of the deed or other document evidencing a change in ownership shall not be denied or delayed because of the failure to file a change of ownership statement, or filing of an incomplete statement, in accordance with this subdivision. If the document evidencing a change in ownership is not recorded or is recorded without the concurrent filing of a change in ownership statement, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death or, if the estate is probated, shall be filed at the time the inventory and appraisal is filed.

(f) Whenever a change in ownership statement is filed with the county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(g) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid.

(h) In the case of a corporation, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign those statements on behalf of the corporation. In the case of a partnership, limited liability company, or other legal entity, the statement shall be signed by an officer, partner, manager, or an employee or agent who has been designated in writing by the partnership, limited liability company, or legal entity.

(i) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation of any change in ownership statement, and no action may be brought or maintained against any person or entity as a result of that assistance.

Nothing in this section shall create a duty, either directly or by implication, that the assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

History.—Added by Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982. Stats. 1987, Ch. 186, in effect July 23, 1987, added the fourth sentence of subdivision (c). Stats. 1988, Ch. 1199, in effect January 1, 1989, substituted "personal representative" for "administrator or executor" after "the" in the first sentence, and substituted "appraisal" for "appraisement" after "inventory and" and added "clerk" after "court" in the second sentence of subdivision (b). Stats. 1994, Ch. 1222, in effect September 30, 1994, added "there occurs" after "Whenever", substituted "manufactured home that is" for "mobilehome", deleted comma after "taxation", deleted "which" after "taxation and", deleted "occurs," after "assessor," and substituted "manufactured home" for "mobilehome" after "property or" in the first sentence of subdivision (a); substituted "in which" for "where" after "county", and added "that is . . . proceedings" after "death" in the first sentence of subdivision (b); added "prior to or" after "filed" and added the third sentence in subdivision (b); substituted "that" for "such" after "shall give" and substituted "manufactured home" for "mobilehome" in the first sentence of the first paragraph of subdivision (c), substituted "that" for "which" after "question" in the third sentence of the first paragraph of subdivision (c), substituted "manufactured home" for "mobilehome" after "property or" and substituted "that" for "which" in the first sentence of the second paragraph of subdivision (c), added ", except that . . . filed" after "ownership" in the second sentence of the second paragraph of subdivision (c), substituted "manufactured home" for "mobilehome" after "property or" and substituted "that" for "such" after "($2,500) if" in the third sentence of the second paragraph of subdivision (c); substituted "the" for "such" after "case" in subdivision (d); added ", except that . . . filed" after "occurs" in the third sentence of subdivision (e); substituted "those" for "such" after "to sign" in the first sentence of subdivision (h), added ", limited liability company," after "partnership" twice, and added "manager," after "partner," in the second sentence of subdivision (h); deleted "such" after "against any" and substituted "that" for "such" after "result of" in the first paragraph of subdivision (i); and substituted "the" for "such" after "implication, that" in the second paragraph of subdivision (i).

Note.—Section 14 of Stats. 1981, Ch. 1141, provided the provisions of this act shall take immediate effect and shall apply to any change in ownership occurring on or after March 1, 1975. However, all changes in value shall be made effective commencing with the 1982–83 fiscal year. No escape assessments shall be levied and no refund shall be made for any years prior to the 1982–83 fiscal year for any increases or decreases in value made for the 1982–83 fiscal year or fiscal years thereafter as the result of the enactment of this act.

It is also the intent of the Legislature that any penalty imposed pursuant to subdivision (j) of Section 480 of the Revenue and Taxation Code prior to the enactment of this act shall be canceled or refunded, unless a written request was made by the assessor or Board of Equalization to file a change in ownership statement and the requested person or legal entity failed to file that statement within 45 days from the date of request.

480.1. **Change in ownership statement; change in control of entity.** (a) Whenever there is a change in control of any corporation, partnership, limited liability company, or other legal entity, as defined in subdivision (c) of Section 64, a signed change in ownership statement as provided for in subdivision (b), shall be filed by the person or legal entity

acquiring ownership control of such corporation, partnership, limited liability company, or other legal entity with the board at its office in Sacramento. The statement shall list all counties in which the corporation, partnership, limited liability company, or legal entity owns real property.

(b) The change in ownership statement as required pursuant to subdivision (a), shall be declared to be true under penalty of perjury and shall give such information relative to the ownership control acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property owned by the corporation, partnership, limited liability company, or other legal entity, the parties to the transaction, and the date of the ownership control acquisition. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

"Important Notice"

"The law requires any person or legal entity acquiring ownership control in any corporation, partnership, limited liability company, or other legal entity owning real property in California subject to local property taxation to complete and file a change in ownership statement with the State Board of Equalization at its office in Sacramento. The change in ownership statement must be filed within 45 days from the date of the change in control of a corporation, partnership, limited liability company, or other legal entity. The law further requires that a change in ownership statement be completed and filed whenever a written request is made therefor by the State Board of Equalization, regardless of whether a change in control of the legal entity has occurred. The failure to file a change in ownership statement within 45 days from the date of a written request by the State Board of equalization results in a penalty of 10 percent of the taxes applicable to the new base year value reflecting the change in control of the real property owned by the corporation, partnership, limited liability company, or legal entity (or 10 percent of the current year's taxes on that property if no change in control occurred). This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

(c) In the case of a corporation, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation. In the case of a partnership, limited liability company, or other legal entity, the statement shall be signed by an officer, partner, manager, or an employee or agent who has been designated in writing by the partnership, limited liability company, or legal entity.

(d) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation of any change in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance.

Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

(e) The board or assessors may inspect any and all records and documents of a corporation, partnership, limited liability company, or legal entity to ascertain whether a change in control as defined in subdivision (c) of Section 64 has occurred. The corporation, partnership, limited liability company, or legal entity shall upon request, make such documents available to the board during normal business hours.

History.—Added by Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982. Stats. 1984, Ch. 678, in effect January 1, 1985, added "complete and" after "taxation to" in the first sentence, added the third sentence, and deleted "either: (1) one hundred dollars ($100), or (2)" after "penalty of" and deleted ", whichever is greater" after "occurred)" in the fourth sentence of the notice in subdivision (b). Stats. 1994, Ch. 1200, in effect September 30, 1994, added all references to limited liability company throughout text, and added "manager," after "partner," in the second sentence of subdivision (c).

480.2. **Change in ownership occasioned by death.** [Repealed by Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982.]

480.2. **Change in ownership statement; change in ownership of entity.** (a) Whenever there is a change in ownership of any corporation, partnership, limited liability company, or other legal entity, as defined in subdivision (d) of Section 64, a signed change in ownership statement as provided in subdivision (b) shall be filed by such corporation, partnership, limited liability company, or other legal entity with the board at its office in Sacramento. The statement shall list all counties in which the corporation, partnership, limited liability company, or legal entity owns real property.

(b) The change in ownership statement required pursuant to subdivision (a) shall be declared to be true and under penalty of perjury and shall give such information relative to the ownership interest acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property owned by the corporation, partnership, limited liability company, or other legal entity, the parties to the transaction, the date of the ownership interest acquisition, and a listing of the ''original coowners'' of the corporation, partnership, limited liability company, or other legal entity prior to the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

''Important Notice''

''The law requires any corporation, partnership, limited liability company, or other legal entity owning real property in California subject to local property taxation and transferring shares or other ownership interest in such

legal entity which constitute a change in ownership pursuant to subdivision (d) of Section 64 of the Revenue and Taxation Code to complete and file a change in ownership statement with the State Board of Equalization at its office in Sacramento. The change in ownership statement must be filed within 45 days from the date that shares or other ownership interests representing cumulatively more than 50 percent of the total control or ownership interests in the entity are transferred by any of the original coowners in one or more transactions. The law further requires that a change in ownership statement be completed and filed whenever a written request is made therefor by the State Board of Equalization, regardless of whether a change in ownership of the legal entity has occurred. The failure to file a change in ownership statement within 45 days from the date of a written request by the Board of Equalization results in a penalty of 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property owned by the corporation, partnership, limited liability company, or legal entity (or 10 percent of the current year's taxes on that real property if no change in ownership occurred). This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment.''

(c) In the case of a corporation, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation. In the case of a partnership, limited liability company, or other legal entity, the statement shall be signed by an officer, partner, manager, or an employee or agent who has been designated in writing by the partnership, limited liability company, or legal entity.

(d) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation of any change in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance.

Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

(e) The board or assessors may inspect any and all records and documents of a corporation, partnership, limited liability company, or legal entity to ascertain whether a change in ownership as defined in subdivision (d) of Section 64 has occurred. The corporation, partnership, limited liability company, or legal entity shall upon request, make such documents available to the board during normal business hours.

History.—Added by Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982. Stats. 1984, Ch. 678, in effect January 1, 1985, added "complete and" after "Code to" in the first sentence, added the third sentence, and deleted "either: (1) one hundred dollars ($100), or (z)" after "penalty of" and deleted ", whichever is greater after "occurred)" in the fourth sentence of the notice in subdivision (b). Stats. 1994, Ch. 1200, in effect September 30, 1994, added all references to limited liability company throughout text, and added "manager," after "partner," in the second sentence of subdivision (c).

480.3. **Change of ownership forms and fees.** (a) Each county assessor and recorder shall make available, without charge and upon request, a form entitled ''Preliminary Change of Ownership Report,'' which transferees of real property shall complete and may file with the recorder concurrent with the recordation of any document effecting a change in ownership. The form shall be signed by the transferee or an officer of the transferee and shall not be signed by an agent acting for a transferee.

(b) If a document evidencing a change in ownership is presented to the recorder for recordation without the concurrent filing of a preliminary change in ownership report, the recorder may charge an additional recording fee of twenty dollars ($20).

(c) Noncompliance with this section by the transferee shall not delay or preclude the recordation of documents if the additional fee specified in subdivision (b) is tendered.

(d) The authority to obtain information pursuant to this section is in addition to, and not in lieu of, any existing authority the assessor has under this article.

(e) In cases where the county tax collector files purchaser's deeds with respect to a sale for defaulted taxes, the information given to the assessor pursuant to Sections 3716 and 3811 shall be deemed to constitute compliance with this section.

(f) The filing of a preliminary change of ownership report or the payment of an additional recording fee shall not be required of any intermediate transferee of property, or of any trustee issuing a trustee's deed to the mortgagee or beneficiary of a mortgage or deed of trust, or his or her assignees, pursuant to the exercise of a power of sale contained in a deed of trust or mortgage pursuant to Chapter 2 (commencing with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code. For purposes of this subdivision, ''intermediate transferee'' means any transferee who is acting as both a transferee and the transferor of the same property as part of a series of simultaneous transfers which affect that property and who records the transfer documents and any other recorded documents related to the transfer in consecutive order at one time.

(g) Except as prescribed in subdivisions (e) and (f), this section shall apply to changes of ownership occurring on or after July 1, 1985.

History.—Added and repealed by Stats. 1984, Ch. 1237, in effect January 1, 1985. Stats. 1986, Ch. 1420, effective January 1, 1987, deleted former subdivision (e), added subdivisions (e), (f), and (g), and relettered former subdivision (f) as subdivision (h). Stats. 1990, Ch. 1546, in effect January 1, 1991, substituted "shall" for "may" after "property" and added "may" after "complete and" in the first sentence, and added the second sentence to subdivision (a); deleted the former second sentence in subdivision (b), which provided, "The additional fee shall not be charged if the document is accompanied by an affidavit that the transferee is not a resident of California."; and deleted former subdivision (h) which provided, "This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date." Stats. 1991, Ch. 199, in effect January 1, 1992, substituted "in" for "of" after "change" in the first sentences of subdivisions (a) and (b); and added ", or any trustee . . . of the Civil Code" after "property" in the first sentence of subdivision (f).

480.4. **Preliminary change of ownership report forms.** (a) The preliminary change of ownership report referred to in Section 480.3 shall be in substantially the following form:

PRELIMINARY CHANGE OF OWNERSHIP REPORT

(To be completed by transferee (buyer) prior to transfer of subject property in accordance with Section 480.3 of the Revenue & Taxation Code.)

FOR RECORDER: Recorded Book , Page , Date Document No.

SELLER:
BUYER:
A.P. #(s):
LEGAL DESCRIPTION:
ADDRESS (if improved):
MAIL TAX INFORMATION TO: Name: _____
Address: _____

FOR ASSESSOR'S USE ONLY:

NOTICE: A lien for property taxes applies to your property on January 1 of each year for the taxes owing in the following fiscal year, July 1 through June 30. One-half of these taxes is due November 1, and one-half is due February 1. The first installment becomes delinquent on December 10, and the second installment becomes delinquent on April 10. One tax bill is mailed before November 1 to the owner of record. If this transfer occurs after January 1 and on or before December 31, you may be responsible for the second installment of taxes due February 1.

The property which you acquired may be subject to a supplemental tax assessment in an amount to be determined by the (name of county) County Assessor. For further information on your supplemental roll tax obligation, please call the (name of county) County Assessor at (phone number).

1. Transfer Information:
   - A. Was this transfer solely between husband & wife, addition of a spouse, death of a spouse, divorce settlement, etc.? a. ( ) YES b. ( ) NO
   - B. Was this transaction only a correction of the name(s) of the person(s) holding title to the property? a. ( ) YES b. ( ) NO
   - C. Was this document recorded to create, terminate, or reconvey a lender's interest in the property? a. ( ) YES b. ( ) NO
   - D. Was this document recorded to substitute a trustee under a deed of trust, mortgage, or other similar document? a. ( ) YES b. ( ) NO
   - E. Did this transfer result in the creation of a joint tenancy in which the seller (transferor) remains as one of the joint tenants? a. ( ) YES b. ( ) NO
   - F. Return of property to person who created the joint tenancy? a. ( ) YES b. ( ) NO
   - G. Is this transfer of property:
     - a. to a trust for the benefit of the grantor? a. ( ) YES b. ( ) NO
     - b. to a revocable trust? a. ( ) YES b. ( ) NO

c. to a trust from which the property reverts to the grantor within 12 years? a. ( ) YES b. ( ) NO

H. If this property is the subject of a lease, is the lease for a term of less than 35 years including written options? a. ( ) YES b. ( ) NO

I. If the conveying document constitutes an exclusion from a change in ownership as defined in Section 62 of the Revenue & Taxation Code for any reason other than those listed above, set forth the specific exclusions claimed:_____

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* IF YOU HAVE ANSWERED "NO" TO QUESTIONS A THROUGH H, INCLUSIVE, AND HAVE NOT CLAIMED ANY OTHER EXCLUSIONS UNDER I, PLEASE COMPLETE BALANCE OF FORM. OTHERWISE SIGN AND DATE.

Preliminary Change of Ownership Report Page Two

2. Type of property transferred:
   a.( ) Single-family residence
   b.( ) Multiple-family residence (no. of units:_____)
   c.( ) Co-op
   d.( ) Condo
   e.( ) Manufactured home
   f.( ) Unimproved lot
   g.( ) Commercial/Industrial
   h.( ) Other (description: _____)
3. Intended as principal residence? a. ( ) YES b. ( ) NO
4. Transfer is by:
   a.( ) Deed; b.( ) Contract of sale;
   c.( ) Other—explain:_____
5. Is less than 100% of property being transferred? a. ( ) YES b. ( ) NO
6. a.( ) Date of transfer or; b.( ) If an inheritance, date of death_____
7. Is or will, the property produce(ing) income? a. ( ) YES b. ( ) NO
8. If answer to Question 4 is yes, is income pursuant to:
   a.( ) Lease; b.( ) Contract; c.( ) Mineral rights;
   d.( ) Other—explain:_____
9. Did the transfer of this property involve the trade or exchange of other real property? a. ( ) YES b. ( ) NO
10. a. Total Purchase Price or Acquisition Price, If Exchanged: $ _____
    b. Cash Downpayment or Value of Trade (excluding closing costs): $ _____
    c. 1st Deed of Trust $ _____
    at _____% interest for _____ years.
    New Loan ( ); Assumed Existing Loan Balance ( ); FHA ( ); Cal-Vet ( ); VA ( ); Bank ( ); Finance Co. ( ); Savings & Loan ( );

Loan Carried By Seller ( ); All Inclusive ( );
Balloon Payment: Yes ( ) No ( ).

d. 2nd Deed of Trust $_____
at _____% interest for _____ years.
New Loan ( ); Assumed Existing Loan Balance ( ); Loan Carried By Seller ( );
Balloon Payment: Yes ( ) No ( ).

e. Was other type of financing involved not covered in (c) or (d), above? a. ( ) YES b. ( ) NO

f. Improvement Bond: Yes ( ) No ( );
Outstanding Balance $ _____

11. Was any personal property involved in purchase other than a manufactured home real property? a. ( ) YES b. ( ) NO
c. AMOUNT _____

Preliminary Change of Ownership Report Page Three

I certify that the foregoing is true, correct, and complete to the best of my knowledge and belief.

Signed _____ Date:_____
(New Owner/Corporate Officer)

Address if other than above_____

Phone No. Where You Are Available From 8:00 am–5:00 pm: ( )_____

(NOTE: The Assessor may contact you for further information.)

(b) The State Board of Equalization may revise the preliminary change of ownership report, as necessary, for the purpose of maintaining statewide uniformity in the contents of the report.

(c) This section shall become operative on July 1, 1991.

History.—Added by Stats. 1990, Ch. 1546, in effect January 1, 1991, operative July 1, 1991. Stats. 1995, Ch. 499, in effect January 1, 1996, operative January 1, 1997, substituted "January" for "March" after "property on" in the first sentence and after "occurs after" in the fifth sentence of the NOTICE: section in subdivision (a). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "manufactured home" for "mobilehome" throughout the text.

480.5. **Real property usage reports.** (a) Every owner of tax-exempt real property shall report to the local assessor the creation, renewal, sublease, or assignment of any lease, sublease, license, use permit, or other document which conveys the right to use that real property within 60 days of the transaction. The report shall include all of the following:

(1) The name and address of the owner.

(2) The names and addresses of all other parties to the transaction, including an identification of each party and of his or her possessory interest.

(3) The type of transaction, whether creation, renewal, sublease, or assignment.

(4) A description of the property.

(5) The date of the transaction.

(6) The terms of the transaction, including all of the following:

(A) The consideration for the possessory interest, whether paid in money or otherwise.

(B) The term of the possessory interest, including any renewal or extension options.

(C) If a sublease, the original term, the remaining term, and the consideration paid for the master lease.

(D) If an assignment, the original term, the remaining term, and the consideration paid for the underlying lease.

(b) This section shall be applicable only in those counties in which the board of supervisors, by ordinance or resolution, specifically elects to have this section applicable in the county.

History.—Added by Stats. 1984, Ch. 872, in effect January 1, 1985. Stats. 1985, Ch. 106, effective January 1, 1986, renumbered the section which was formerly numbered 480.4. Stats. 1990, Ch. 892, in effect January 1, 1991, deleted "This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute which is chaptered on or before January 1, 1991, deletes or extends that date." in subdivision (b).

Note.—Section 2 of Stats. 1984, Ch. 872 provided no payment by state to local governments because of this act, however, a local agency or school district may pursue any remedies to obtain reimbursement.

480.6. **Change in ownership statement; possessory interest.** (a) Notwithstanding any other provision of law, a holder of a possessory interest in real property that is owned by a state or local governmental entity is not required to file a preliminary change in ownership report or change in ownership statement with respect to any renewal of that possessory interest. Instead, every state or local governmental entity that is the fee owner of real property in which one or more taxable possessory interests have been created shall either file any preliminary change in ownership report or change in ownership statement otherwise required to be filed with respect to any renewal of a possessory interest, or annually file with the county assessor, no later than the 15th day of the first month following the month in which the lien date occurs, a real property usage report. The report shall include all of the following information:

(1) The name and address of the fee owner of the real property.

(2) The name and address of each holder of a possessory interest in the real property.

(3) The types of transactions in which the holders of the possessory interests acquired those interests, whether creations, renewals, subleases, or assignments.

(4) The description of the subject real property.

(5) The date of each transaction in which a holder of a possessory interest in the real property acquired that interest.

(6) The terms of each transaction described in paragraph (5), including all of the following:

(A) The consideration given for the possessory interest, whether paid in money or otherwise.

(B) The terms of the possessory interest, including any renewal or extension option.

(C) For any subleases, the original term and remaining term of the sublease, and the consideration paid for the master lease.

(D) For any assignments, the original term and remaining term of the assignment, and the consideration paid for the underlying lease.

(b) The failure of a state or local governmental entity to comply with this filing requirement shall not give rise to any interest or penalties assessed against the holder of the possessory interest.

History.—Added by Stats. 1995, Ch. 498, in effect January 1, 1996. Stats. 1996, Ch. 171, in effect July 17, 1996, added subdivision letter designation (a) before "Notwithstanding any other", substituted "is not be required" for "shall not be required" after "governmental entity" in the first sentence, substituted the second sentence for the former second sentence, which stated "Any preliminary change in ownership report or change in ownership statement that is required to be filed with respect to a possessory interest as described in the preceding sentence shall be filed in accordance with this article by the state or local governmental entity that is the fee owner of the property in which the relevant possessory interest has been created.", and added the third sentence, and the balance of subdivision (a); and added subdivision letter designation (b) before the former third sentence commencing with "The failure of".

480.7. **Change in ownership statement; life insurance company.** (a) On or after January 1, 1996, in addition to any filing required to be made pursuant to Section 441, 480, 480.1, or 480.2, any domestic life insurance company that has established a separate account pursuant to Section 10506 of the Insurance Code, or any foreign life insurance company that has established a separate account pursuant to the corresponding insurance laws of its state of domicile, shall file with the assessor a signed statement of transfer as described in subdivision (b) with respect to any transfer of real property, located within the county, to or from that separate account.

(b) The statement of transfer required to be filed by subdivision (a) shall comply with all of the following conditions:

(1) The statement of transfer shall be subscribed under penalty of perjury.

(2) The statement of transfer shall identify all of the following:

(A) The separate account to which or from which the real property was transferred.

(B) The parties to the transfer.

(C) The date of transfer and the amount, if any, of consideration given with respect to the transfer, whether paid in the form of money or otherwise.

(D) The name and address of a contact person for any questions with respect to the separate account.

(E) Any other information with respect to the transfer as prescribed by the State Board of Equalization, after consultation with the California Assessor's Association.

(3) The statement of transfer shall not be required to include any information that is not relevant to the assessment function.

(4) The statement of transfer shall be signed by either an officer of the filing life insurance company, or by an employee or agent of that insurance company who has been designated in writing by the company's board of directors to sign the statement of transfer on the company's behalf.

(5) The statement of transfer shall be filed with the assessor either in person or through the United States mail, properly addressed with the postage prepaid.

(c) Any life insurance company required by subdivision (a) to file a statement of transfer that fails to file that statement within 45 days from the date of the subject transfer of real property shall be subject to a penalty of one thousand dollars ($1,000), in addition to any other penalty prescribed by law.

History.—Added by Stats. 1995, Ch. 933, in effect January 1, 1996.

481. **Information held secret.** All information requested by the assessor or the board pursuant to this article or furnished in the change in ownership statement shall be held secret by the assessor and the board. All information furnished in either the preliminary change in ownership statement or the change in ownership statement shall be held secret by those authorized by law to receive or have access to this information. These statements are not public documents and are not open to inspection, except as provided in Section 408.

History.—Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982, added "or the board" after the first "assessor", and "and the board" after the second "assessor" in the first sentence. Stats. 1985, Ch. 200, effective January 1, 1986, added second sentence and substituted "These statements . . . and are" for "The statement is not a public document and is" before "not" in the third sentence.

482. **Failure to file statement.** (a) If a person or legal entity required to file a statement described in Section 480 fails to do so within 45 days from the date of a written request by the assessor, a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or manufactured home, whichever is greater, but not to exceed two thousand five hundred dollars ($2,500) if the failure to file was not willful, shall, except as otherwise provided in this section, be added to the assessment made on the roll. The penalty shall apply for failure to file a complete change in ownership statement notwithstanding the fact that the assessor determines that no change in ownership has occurred as defined in Chapter 2 (commencing with Section 60) of Part 0.5. The penalty may also be applied if after a request the transferee files an incomplete statement and does not supply the missing information upon a second request.

(b) If a person or legal entity required to file a statement described in Section 480.1 or 480.2 fails to do so within 45 days from the date of a written request by the State Board of Equalization, a penalty of 10 percent of the taxes applicable to the new base year value reflecting the change in control or change in ownership of the real property owned by the corporation, partnership, or legal entity, or 10 percent of the current year's taxes on that property if no change in control or change in ownership occurred, shall be added to the assessment made on the roll. The penalty shall apply for failure to file a complete statement notwithstanding the fact that the board determines that no change in control or change in ownership has occurred as defined in subdivision (c) or (d) of Section 64. The penalty may also be applied if after a request the person or legal entity files an incomplete statement and does not supply the missing information upon a second request. That penalty shall be in lieu of the penalty provisions of subdivision (a). However, the penalty added by this subdivision shall be automatically

extinguished if the person or legal entity files a complete statement described in Section 480.1 or 480.2 no later than 60 days after the date on which the person or legal entity is notified of the penalty.

(c) The penalty for failure to file a timely statement pursuant to Sections 480, 480.1, and 480.2 for any one transfer may be imposed only one time, even though the assessor may initiate a request as often as he or she deems necessary.

(d) The penalty shall be added to the roll in the same manner as a special assessment and treated, collected, and subject to the same penalties for the delinquency as all other taxes on the roll in which it is entered.

(1) When the transfer to be reported under this section is of a portion of a property or parcel appearing on the roll during the fiscal year in which the 45-day period expires, the current year's taxes shall be prorated so the penalty will be computed on the proportion of property which has transferred.

(2) Any penalty added to the roll pursuant to this section between January 1 and June 30 may be entered either on the unsecured roll or the roll being prepared. After January 1, the penalty may be added to the current roll only with the approval of the tax collector.

(3) If the property is transferred or conveyed to a bona fide purchaser for value or becomes subject to a lien of a bona fide encumbrancer for value after the transfer of ownership resulting in the imposition of the penalty and before the enrollment of the penalty, the penalty shall be entered on the unsecured roll in the name of the transferee whose failure to file the change in ownership statement resulted in the imposition of the penalty.

(e) When a penalty imposed pursuant to this section is entered on the unsecured roll, the tax collector may immediately file a certificate authorized by Section 2191.3.

(f) Notice of any penalty added to either the secured or unsecured roll pursuant to this section shall be mailed by the assessor to the transferee at his or her address contained in any recorded instrument or document evidencing a transfer of an interest in real property or manufactured home or at any address reasonably known to the assessor.

History.—Stats. 1979, Ch. 1161, in effect September 29, 1979, substituted the balance of the second sentence of the first paragraph after "added" for "to the current assessment roll and shall become a lien against the real property in the same manner as any other property tax, unless paid by the end of the month following the month in which it is enrolled. Thereafter, the lien shall be subject to interest and penalties as any other delinquent tax on real property". Stats. 1979, Ch. 1180, in effect January 1, 1980, added "or mobilehome" after "property" in the first sentence, and deleted "to the roll" after "added", and substituted "this chapter" for "Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code" in the second sentence of the first paragraph. Stats. 1980, Ch. 1081, in effect September 26, 1980, added "(a)" and a new first sentence to the first paragraph; added "or, for property which is state assessed, by the board" after "mobilehome", "a written" before "request", "but not to exceed two thousand five hundred dollars ($2,500) if such failure was not willful" before and "except as otherwise provided in this section" after "shall" and "secured" after "current" in the second sentence of subdivision (a); substituted a new third sentence to subdivision (a); added subdivisions (b) through (e); added "(f)" before the last paragraph; and, substituted "either the secured or unsecured" for "the" before "roll" and "transferee" for "assessee" before "at his" and "transfer of an interest in real property or mobilehome" for "change in ownership" after "evidencing a" in subdivision (f). Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982, substituted subdivisions (a) and (b) for former subdivisions (a) and (b); and added "for failure . . . 480.2" after "penalty", substituted "may" for "can" after "transfer", and added "or she" after "he" in subdivision (c). Stats. 1983, Ch. 1224, in effect January 1, 1984, deleted "of Division 1" after "Part 0.5" in the second sentence of subdivision (a); added "State" before "Board" in the first sentence of subdivision (b); substituted "treated, collected, and" for "shall be treated and collected like, and shall be" before "subject" in subdivision (d), deleted the former second sentence in subsection (1) thereof, deleted "of any fiscal year" after "June 30" and substituted "the roll being prepared" for "on the current or subsequent year's secured roll as a lien against the property transferred" after "roll or" in the first sentence and added the second sentence of subsection (2) thereof, and substituted "the" for "such" after the second "penalty" in subsection

(3) thereof; and added "or her" after "his" in subdivision (f). Stats. 1984, Ch. 678, in effect January 1, 1985, added the fifth sentence to subdivision (b). Stats. 1995, Ch. 499, in effect January 1, 1996, operative January 1, 1997, substituted "January" for "March" after "section between" in the first sentence and after "After" in the second sentence of subdivision (d)(2). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "manufactured home" for "mobilehome" throughout the text.

Note.—Section 22 of Stats. 1979, Ch. 1161, provided no payment by state to local governments because of this act. Section 18 of Stats. 1979, Ch. 1180, provided no payment by state to local governments because of this Act.

482.1. **Failure to file statement; successor.** If there is a failure to file a change in ownership statement within the time required by subdivision (b) of Section 480, the successor in interest to the decedent's property shall be subject to the penalty provided in Section 482.

History.—Added by Stats. 1980, Ch. 1081, in effect September 26, 1980. Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982, substituted "subdivision (b) of Section 480" for "Section 480.1".

483. **Excusable delay.** (a) If the assessee establishes to the satisfaction of the county board of supervisors that the failure to file the change in ownership statement within the time required by subdivision (a) of Section 482 was due to reasonable cause and not due to willful neglect, and has filed the statement with the assessor, the board of supervisors may order the penalty abated, provided the assessee has filed with the board of supervisors written application for abatement of the penalty no later than 60 days after the date on which the assessee was notified of the penalty.

If the penalty is abated it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

(b) The provisions of subdivision (a) shall not apply in any county in which the board of supervisors adopts a resolution to that effect. In that county the penalty provided for in subdivision (a) of Section 482 shall be abated if the assessee files the change of ownership statement with the assessor no later than 60 days after the date on which the assessee was notified of the penalty.

If the penalty is abated it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

(c) If a person or legal entity establishes to the satisfaction of the board that the failure to file the change in ownership statement within the time required by subdivision (b) of Section 482 was due to reasonable cause and not due to willful neglect, and has filed the statement with the board, the board may recommend to the county board of supervisors that the penalty be abated, provided the person or legal entity has filed with the board written application for abatement of the penalty no later than 60 days after the date on which the person or legal entity was notified of the penalty.

If the penalty is abated by the board of supervisors, it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

History.—Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982, added the subdivision letters, substituted "subdivision (a) of Section 482" for "Section 480" in the first sentence of subdivision (a), and added subdivision (b). Stats. 1982, Ch. 1465, in effect January 1, 1983, added subdivision (b) and relettered former subdivision (b) as subdivision (c).

484. **Applicability of Article 2.** With the exception of the penalty provision of Section 463, the provisions of Article 2 (commencing with Section 441) shall be available to the assessor for the purposes of securing change in ownership information required for assessment purposes.

485. **Assessment; failure to file statement.** If, after written request by the assessor, any person fails to comply with any provision of law for furnishing information required by Section 480, the assessor, based upon information in his possession, shall estimate the value of the property and, based upon this estimate, promptly assess the property.

History.—Stats. 1981, Ch. 714, in effect January 1, 1982, substituted "assess" for "assesses" after "promptly".

487. **Requirement to file application to Insurance Commissioner.** Any life insurance company that completes a real property transaction for which approval was obtained from the Insurance Commissioner pursuant to Section 10506 of the Insurance Code shall, upon completing that transaction, file with the assessor of the county in which the real property is located a certified copy of the application that the insurance company filed with the Insurance Commissioner with respect to the transaction.

History.—Added by Stats. 1995, Ch. 933, in effect January 1, 1996.

Article 3. Arbitrary and Penal Assessments

501. **Failure to furnish information.** If after written request by the assessor, any person fails to comply with any provision of law for furnishing information required by Sections 441 and 470, the assessor, based upon information in his possession, shall estimate the value of the property and, based upon this estimate, promptly assess the property.

History.—Stats. 1945, p. 2034, in effect September 15, 1945, deleted matter now covered by Section 505. Stats. 1966, p. 662 (First Extra Session), in effect October 6, 1966, substituted "fails" for "neglects or refuses", "furnishing" for "obtaining", "on taxable tangible property" for "from taxpayers," and "shall assess" for "may penally assess", and added the last clause relating to Articles 1 or 4. Stats. 1967, p. 3337, in effect November 8, 1967, substituted language shown for prior language from ". . . for furnishing information . . ." to the end. Stats. 1971, p. 3521, in effect March 4, 1972, substituted "request" for "demand" in the first sentence.

Constitutionality.—Under prior law, an arbitrary assessment after refusal of the taxpayer to file the property statement does not violate Article XIII, Section 9, of the Constitution. *Orena* v. *Sherman,* 61 Cal. 101.

Construction. Escape assessment on cattle and feed owned by taxpayer on the lien date upheld where the assessor determined the amount of cattle and feed based on a loan application filed by the taxpayer several weeks after the lien date and following taxpayer's refusal to furnish additional information to the assessor. *Domenghini* v. *San Luis Obispo County,* 40 Cal.App.3d 689. Escape assessment on addition to single family residence upheld where the assessor determined the additional square footage during the framing stages and where taxpayer later refused to allow the assessor to verify his measurements. The assessor has only to show that, based on information in his possession, he estimated the value of the property and based on this estimate arrived at the assessment. The burden then shifts to the taxpayer to show that the assessor's estimate of value is incorrect, and that as a result the taxpayer paid more taxes than he should have. *Simms* v. *Pope,* 218, Cal.App.3d 472.

502. **Concealment, etc., of tangible personal property.** If any person willfully conceals, fails to disclose, removes, transfers or misrepresents tangible personal property to evade taxation which results in an assessment lower than that which would otherwise be required by law, the assessor on discovery shall assess the property in the lawful amount and impose the penalty provided for in Section 504.

History.—Added by Stats. 1967, p. 3337, in effect November 8, 1967.

503. **Fraudulent act, collusion, causing escape of taxable tangible property.** If any taxpayer or the taxpayer's agent through a fraudulent act or omission causes, or if any fraudulent collusion between the taxpayer or the taxpayer's agent and the assessor or any of the assessor's deputies causes, any taxable tangible property to escape assessment in whole or in part, or to be underassessed, the assessor shall assess the property in the lawful amount and add a penalty of 75 percent of the additional assessed value so assessed.

History.—Added by Stats. 1967, p. 3337, in effect November 8, 1967. Stats. 1996, Ch. 1087, in effect January 1, 1997, substituted "the taxpayer's agent" for "his agent" twice, substituted "the assessor's deputies" for "his deputies" after "assessor or any of", substituted "add a penalty of 75 percent of the additional assessed value so assessed." for "impose the penalty provided for in Section 504" after "the lawful amount and".

Construction.—Under prior law this section referred to the amount of property to be returned and did not impose a penalty for a false valuation, even though willfully made. *Clunie* v. *Siebe,* 112 Cal. 593.

Constitutionality.—Former section 503 did not violate the separation of powers or due process provisions of the constitution. *L. B. Foster Co.* v. *Los Angeles County,* 265 Cal.App.2d 24.

503.5. **Reporting property for fiscal year 1967–68.** [Repealed by Stats. 1981, Ch. 261, in effect January 1, 1982.]

504. **Penalty assessments; amounts.** There shall be added to any assessment made pursuant to Section 502, except those assessments as are placed on the current roll prior to the time it is originally completed and published, a penalty of 25 percent of the additional assessed value so assessed.

History.—Added by Stats. 1967, p. 3337, in effect November 8, 1967. Stats. 1994, Ch. 544, in effect January 1, 1995, added subdivision letter designation (a) before "There", substituted "Section 502" for "Sections 502 or 503" after "pursuant to", substituted "those" for "such" after "except", and substituted "on" for "in" after "placed" in the first paragraph; and added subdivision (b).Stats. 1996, Ch. 1087, in effect January 1, 1997, deleted subdivision letter designation (a) before "There", and deleted former subdivision (b) which provided that "There shall be added to any assessment made pursuant to Section 503, except those assessments as are placed on the current roll prior to the time it is originally completed and published, a penalty of 75 percent of the additional assessed value so assessed."

Constitutionality.—Former section 504 did not violate the separation of powers or due process provisions of the constitution. *L. B. Foster Co.* v. *Los Angeles County,* 265 Cal.App.2d 24.

505. **Entry by assessor.** The assessor shall make an assessment subject to penalty by entering on the local roll the assessment and penalty in such form and manner as prescribed by the board.

History.—Added by Stats. 1945, p. 2034, in effect September 15, 1945. Stats. 1966, p. 663 (First Extra Session), in effect October 6, 1966, substituted "assessment subject to penalty" for "penal assessment" and the balance of the sentence after "local roll" for "opposite the name of the assessee the words 'Penal assessment.' "

506. **Tax rate applicable, interest.** The tax rate applicable to any assessment made pursuant to this article shall be the tax rate to which the property would have been subject if it appeared upon the roll in the year when it should have been lawfully assessed. To the tax there shall be added interest

at the rate of three-fourths of 1 percent per month from the date or dates the taxes would have become delinquent if they had been timely assessed to the date the additional assessment is added to the assessment roll.

History.—Added by Stats. 1967, p. 3337, in effect November 8, 1967. Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981, substituted "three-fourths" for "one-half" in the second sentence.

Article 4. Property Escaping Assessment

531. **Escaped property.** If any property belonging on the local roll has escaped assessment, the assessor shall assess the property on discovery at its value on the lien date for the year for which it escaped assessment. It shall be subject to the tax rate in effect in the year of its escape except as provided in Section 2905 of this code.

Property shall be deemed to have escaped assessment when its owner fails to file a property statement pursuant to the provisions of Section 441, to the extent that this failure results in no assessment or an assessment at a valuation lower than would have obtained had the property been properly reported. Escape assessments made as the result of an owner's failure to file a property statement as herein provided shall be subject to the penalty and interest imposed by Sections 463 and 506, respectively. This paragraph shall not constitute a limitation on any other provision of this article.

History.—Stats. 1941, p. 410, operative February 1,1941, rearranged section and added subdivision (b). Stats. 1959, p. 3246, in effect September 18, 1959, reworded section so as to make subdivisions (a) and (b) applicable only to real property. Stats. 1967, p. 3338, in effect November 8, 1967, inserted second sentence. Stats. 1968, p. 2146, in effect November 13, 1968, added "except as provided in Section 2905 of this code" and deleted language relating to real property which was reenacted as Section 531.2. Stats. 1973, Ch. 918, p. 1700, in effect January 1, 1974, added the second paragraph.

Delayed assessment.—An assessment entered by the assessor on July 31, after the regular assessment period for the tax year, was proper as an "escaped assessment" under this section where there was no indication either that the delayed assessment was caused by the assessor's negligence or that the taxpayer acted to its detriment in reliance on the fact that it was not assessed during the regular assessment period. *De Luz Homes, Inc.* v. *San Diego County,* 45 Cal.2d 546; *Western Title Guaranty Co.* v. *Stanislaus County,* 41 Cal.App.3d 733.

Assessment on land only does not prevent escape assessment on improvement subsequently discovered. *Jensen* v. *Byram,* 229 Cal.App.2d 651.

Assessor's duty.—The assessor's duty to assure uniformity in taxation bestows upon him the power to impose escape assessments, regardless of the relative culpability of the parties. *General Dynamics Corporation* v. *San Diego County,* 108 Cal.App.3d 132. The assessor has the duty to assess all taxable property at a uniform ratio of its full cash value. To the extent that property has been assessed at an assessment ratio lower than the ratio properly established by the assessor for a particular year such property has escaped assessment, and upon discovery an escaped assessment must be made. The rule applies though the taxpayer has accurately reported the cost or value figures of the property. *Bauer-Schweitzer Malting Co., Inc.* v. *San Francisco,* 8 Cal.3d 942.

Assessor's mistake.—Under this section the assessor is empowered to effect a correct assessment where taxable property had been erroneously valued and it may be applied to situations in which there was mistake on the part of the assessor and is not limited to escape assessments involving official misconduct. *Hewlett-Packard Co.* v. *Santa Clara County,* 50 Cal.App.3d 74.

531.05. **Escape assessments: Nordlinger v. Hahn.** [Repealed by Stats. 1995, Ch. 497, in effect January 1, 1996.]

531.1. **Escaped property, incorrect exemption.** Upon the termination of an exemption pursuant to Section 276.3, upon receipt of a notice pursuant to Section 284, or upon indication from any audit or other source that an exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the exemption. If an exemption or any portion of an exemption has been terminated or has been incorrectly allowed, an escape assessment in the amount of the exemption, or that portion of the exemption that has been terminated or erroneously allowed, with interest as provided in Section 506, shall be made; except that where the exemption was terminated pursuant to Section 276.3 or where the exemption or a portion of the exemption was allowed as the result of an assessor's error, the amount of interest shall be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that the information was erroneous or incomplete, the penalty provided in Section 504 shall be added to the assessment.

History.—Added by Stats. 1967, p. 3338, in effect November 8, 1967. Stats. 1970, p. 1069, in effect November 23, 1970, added "or other source" after "auditor" in the first sentence of the first paragraph; deleted "veteran's" as it modified "exemption" throughout the first paragraph and substituted "an" for "a" as required; and added the provisions pertaining to "any portion of an (the) exemption" and the second clause of the second sentence of the first paragraph. Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, added "Upon the termination of an exemption pursuant to Section 276.3," before "Upon receipt of" and added an "a" before "notice pursuant to" in the first sentence; added "terminated or has been" after "exemption has been" and added "terminated or" after "that has been" in the first clause, and added "was terminated pursuant to Section 276.3 or where the exemption" after "where the exemption" in the second clause of the second sentence; and substituted "the" for "such" after "with knowledge that" in the third sentence of the first paragraph.

531.2. **Escaped real property.** (a) When the property is real property which subsequent to July 1 of the year of escape for purposes of this article, or subsequent to July 1 of the year in which the property should have been lawfully assessed, for purposes of Article 3 (commencing with Section 501), but prior to the date of that assessment and the showing thereof on the secured roll, with the date of entry specified thereon, has (1) been transferred or conveyed to a bona fide purchaser for value, or (2) become subject to a lien of a bona fide encumbrance for value, the escape assessment pursuant to either of these articles shall not create or impose a lien or charge on that real property, but shall be entered on the unsecured roll in the name of the person who would have been the assessee in the year in which it escaped assessment

and shall thereafter be treated and collected like other taxes on that roll. The tax rate applicable shall be the secured tax rate of the year in which the property escaped assessment.

(b) If the real property escaped assessment as a result of an unrecorded change in ownership or change in control for which a change in ownership statement required by Section 480, 480.1, or 480.2, or a preliminary change in ownership report, pursuant to Section 480.3, is not filed, the assessor shall appraise the property as of the date of transfer and enroll the difference in taxable value for each of the subsequent years on the secured roll, with the date of entry specified thereon. However, if prior to the date of the assessment the property has (1) been transferred or conveyed to a bona fide purchaser for value, or (2) become subject to a lien of a bona fide encumbrance for value, the escape assessment pursuant to this paragraph shall not create or impose a lien or charge on that real property, but shall be entered on the unsecured roll in the name of the person who would have been the assessee in the year in which it escaped assessment and shall thereafter be treated and collected like other taxes on that roll. The tax rate applicable shall be the secured rate of the year in which the property escaped assessment. ''Assessment year'' means the period defined in Section 118.

In the event of a failure to file a change in ownership statement required by Section 480, 480.1, or 480.2, or a preliminary change in ownership report, pursuant to Section 480.3, the interest provided in Section 506 may, by the order of the board of supervisors, be added.

(c) (1) Taxes resulting from escape assessments shall be prorated pursuant to paragraphs (2) to (5), inclusive, only if the board of supervisors of a county has adopted a resolution specifying that taxes shall be prorated pursuant to this subdivision.

(2) When real property has been transferred or conveyed to a bona fide purchaser for value subsequent to July 1 of the year of escape for purposes of this article, or subsequent to July 1 of the year in which the property should have been lawfully assessed, for purposes of Article 3 (commencing with Section 501), taxes resulting from escape assessments pursuant to this section shall be prorated between the following:

(A) The person who would have been the assessee if the change in ownership had not occurred.

(B) The person who purchased the property.

(3) If the real property has been transferred or conveyed to a bona fide purchaser for value more than once during the year of escape or assessment, each owner of record during that period shall be liable for a pro rata share of taxes based on the length of time during that period each bona fide purchaser was the record owner of that real property.

(4) When the assessor has identified the fact and amount of the escape assessment, the assessor shall identify the owners of record during the year of escape or assessment and the dates of ownership for each owner.

(5) The auditor shall compute the respective prorated shares of taxes for each owner of record. The share of taxes of the current owner of the real property shall be placed on the secured roll as a lien on the parcel for which the escaped assessment was discovered. The share of taxes of any previous owner during the year of escape or assessment shall be entered on the unsecured roll.

History.—Added by Stats. 1968, p. 2146, in effect November 13, 1968. This provision was formerly a part of Section 531, Stats. 1973, Ch. 1190, p. 2503, in effect January 1, 1974, substituted the present language for prior provision which was confined to a statement of when escapes for real property would lie. Stats. 1976, Ch. 156, p. 251, in effect January 1, 1977, substituted the balance of the first sentence after "such real property" and the second sentence for "but shall be collected as follows" and for former subsections (a) and (b). Stats. 1980, Ch. 1081, in effect September 26, 1980, added the second paragraph. Stats. 1981, Ch. 1141, in effect January 1, 1982, added "or change in control" after "change in ownership" and added ", 480.1, or 480.2" after "480" in the first sentence, and added "or change in control" after "changes in ownership" in the third sentence of the second paragraph. Stats. 1987, Ch. 537, in effect January 1, 1988, deleted "of this chapter" after "Section 501)", in the first sentence of the first paragraph; substituted "that" or "these" for "such" or "said" throughout text; and substituted "changes" for "change" after "ownership or" in the third sentence, and added the fourth sentence of the second paragraph. Stats. 1990, Ch. 126, in effect June 11, 1990, substituted "that" for "such" after "date of" in the first sentence of the first paragraph substituted ". However," for ", provided, however, that" after "thereon", substituted "the" for "such" after "date of", substituted "that" for "such" after "charge on", and added a comma between "property" and "but" in the former first sentence of the second paragraph, and added the third paragraph. Stats. 1990, Ch. 723, in effect January 1, 1991, added subdivision letters (a) and (b), and added subdivision (c). Stats. 1994, Ch. 544, in effect January 1, 1995, deleted former fourth sentence of subdivision (b) which read, "Notwithstanding the provisions of Section 532, escaped assessments resulting from these unrecorded changes in ownership or changes in control shall be made within eight years after July 1 of the assessment year in which the real property escaped taxation or was underassessed." Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000, added ", or a preliminary change in ownership report, pursuant to Section 480.3," after "480.1, or 480.2" in the first sentence of the first paragraph and added "or a preliminary change in ownership report, pursuant to Section 480.3," after "480.1, or 480.2," in the first sentence of the second paragraph of subdivision (b).

Note.—Section 1(b) of Stats. 1987, Ch. 537, provided that the Legislature further finds and declares that the provisions of law relating to escape assessments are in no way inconsistent with Article XIII A of the California Constitution. An escape assessment merely reflects the amount by which the property has been underassessed and is a mechanism which permits the correction of the effects of that underassessment. The amount of the underassessment must be determined, however, in accordance with the applicable statutory valuation standards. Thus, an escape assessment is merely a mechanism for implementing existing property tax law and cannot be in conflict with it. Accordingly, the amendments to Sections 531.2 and 532 of the Revenue and Taxation Code made by this act are necessary to make clear that an escape assessment resulting from the correction of an error in a base-year value may be made within four, six, or eight years, as applicable, after the first day of July of the assessment year, as defined in Section 118 of the Revenue and Taxation Code, in which the property either wholly escaped taxation or was underassessed, as determined by applying the applicable Article XIII A valuation standards.

531.3. **Escaped personal property, failure to report cost accurately.** If the assessor requires an assessee to describe personal property in such detail as shows the cost thereof but the assessee omits to report the cost of the property accurately, notwithstanding that this information is available to the assessee, to the extent that this omission on the part of the assessee causes the assessor not to assess the property or to assess it at a lower valuation than he would enter upon the roll were the cost reported to him accurately, that portion of the property as to which the cost is unreported, in whole or in part, shall be assessed as required by law. If the omission is willful or fraudulent, the penalty and interest provided in Sections 504 and 506 shall be added to the additional assessment; otherwise only the interest provided in Section 506 shall be so added.

History.—Stats. 1969, p. 3164, in effect November 10, 1969, renumbered the section which was formerly numbered 507.

Inaccurate reporting not a prerequisite to escape assessment.—The fact that escape assessments are allowed under this section because of inaccurate reporting does not impliedly exclude escape assessments when cost has been correctly reported. Taxable property must be assessed and a previous underassessment cannot be sustained although all parties acted in good faith. *Ex-Cell-O Corp.* v. *Alameda County,* 32 Cal.App.3d 135.

Inaccurate report.—A standard cost accounting system utilizing variance accounts carrying certain expenses not recorded as costs comes under the provisions of this section and results in the addition of the interest provided by section 506 and disallowance of the section 219 inventory exemption for escape assessments made hereunder. *Beckman Instruments, Inc.* v. *Orange County,* 53 Cal.App.3d 767.

531.4. **Escaped business property, inaccurate statement or report.** When an assessee files with the assessor a property statement or report on a form prescribed by the board with respect to property held or used in a profession, trade or business and the statement fails to report any taxable tangible property accurately, regardless of whether this information is available to the assessee, to the extent that this failure causes the assessor not to assess the property or to assess it at a lower valuation than he would enter on the roll if the property had been reported to him accurately, that portion of the property which is not reported accurately, in whole or in part, shall be assessed as required by law. If the failure to report the property accurately is willful or fraudulent, the penalty and interest provided in Sections 504 and 506 shall be added to the additional assessment; otherwise only the interest provided in Section 506 shall be added.

History.—Added by Stats. 1969, p. 3164, in effect November 10, 1969.

Construction.—The word ''shall'' in this section must be construed as mandatory so that mandamus will lie to compel immediate performance of the assessor's duty in order to avoid loss due to the running of the statute of limitations. *Knoff* v. *San Francisco,* 1 Cal.App.3d 184.

Right to Recover Accrues on Lien Date.—The right to recover taxes on business inventories escaping assessment as a result of inaccuracies in the taxpayer's property statements accrued on the lien date of the fiscal year in which the escape occurred and the law as it then existed must govern the assessment. The statutory scheme for escape assessments embodies the principle that the right to taxes on escape property accrues on the lien date, not on the date of entry on the tax roll. *California Computer Products, Inc.* v. *Orange County,* 107 Cal.App.3d 731; *General Dynamics Corporation* v. *San Diego County,* 108 Cal.App.3d 132.

531.5. **Escaped property, business inventory exemption.** If a business inventories exemption has been incorrectly allowed because of erroneous or incorrect information submitted by the taxpayer or his agent misclassifying as business inventories property not includible in ''business inventories,'' as that term is defined in Section 129, an escape assessment in the amount of the exemption shall be made on discovery of the error. Interest shall be added to the assessment in the amount and manner provided by Section 506. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the taxpayer or his agent with knowledge that such information was erroneous or incorrect, the penalty provided in Section 504 shall be added to the assessment.

History.—Added by Stats. 1969, p. 630, in effect June 27, 1969. Stats. 1969, p. 3119, in effect September 6, 1969, substituted "one-half of 1" for "½" percent. Stats. 1981, Ch. 261, in effect January 1, 1982, deleted "at the rate of one-half of 1 percent per month, computed" after "assessment" and added "amount and" before "manner" in the second sentence.

531.6. **Escaped real property, homeowners' exemption.** The taxpayer who has filed a claim for the homeowners' exemption which has not been denied by the assessor is responsible for notifying the assessor when the property is no longer eligible for the exemption.

Upon any indication that a homeowners' exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the homeowners' exemption. If the assessor determines that the property is no longer eligible for the exemption, he shall immediately cancel the exemption on the property.

If a homeowners' exemption has been incorrectly allowed, an escape assessment as allowed by Section 531.1 in the amount of the exemption with interest as provided in Section 506 shall be made, except that where the exemption was allowed as the result of an assessor's error, the amount of interest shall be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that such information was erroneous or incomplete or because the claimant failed to notify the assessor in a timely manner that the property was no longer eligible for the exemption, the penalty provided in Section 504 shall be added to the assessment. If the property subject to this paragraph has been transferred or conveyed to a bona fide purchaser for value during the period commencing with the lien date and ending July 1 of the fiscal year for which such exemption was incorrectly allowed, and the claimant is not the purchaser, any amount of penalty provided by Section 504 or any amount of interest provided by Section 506 imposed pursuant to the escape assessment due to such incorrect homeowners' exemption shall be forgiven.

History.—Added by Stats. 1974, Ch. 60, p. 132, in effect March 12, 1974. Stats. 1974, Ch. 1107, p. 2370, in effect September 23, 1974, operative with respect to the 1974–75 fiscal year and thereafter, substituted "which has not been denied by the assessor" for ", once granted,", in the first sentence of the first paragraph; and added the balance of the first sentence after "made", and added "in a timely manner" after "assessor" in the second sentence of the third paragraph. Stats. 1978, Ch. 1126, in effect January 1, 1979 substituted "Section 531.1" for "Section 531.2" in the first sentence, and added the third sentence to the third paragraph. Stats. 1979, Ch. 242, in effect July 10, 1979, substituted the balance of the third sentence of the third paragraph after "value" for "or becomes subject to a lien of a bona fide encumbrance for value, the provisions of Section 531.2 shall apply".

531.7. **Escaped tax deeded real property.** If property has not been legally assessable on the local secured roll for any year because the property has been tax deeded to a taxing agency other than the state, the property shall be deemed to have escaped assessment for that year and shall be subject to the provisions of this article if:

(a) The property has not been declared tax defaulted for delinquent taxes, and,

(b) The property has been redeemed from the tax sale and deed to the taxing agency, or

(c) The tax deed to the taxing agency has been held to be invalid and has been canceled; provided, however, that the statute of limitations provided for in Section 532 shall not apply.

History.—Added by Stats. 1979, Ch. 242, in effect July 10, 1979. Stats. 1985, Ch. 316, effective January 1, 1986, substituted "the" for "such" after "because" and substituted "that" for "such" after "for" in the first sentence, substituted "declared tax defaulted" for "sold to the state" after "been" in subsection (a), and deleted "of this Code" after "532" in subsection (c).

Note.—Section 20 of Stats. 1985, Ch. 186, provided that it is the intent of the Legislature in enacting Sections 11 and 11.3 of this act, which amend Sections 110.1 and 532.3 of the Revenue and Taxation Code, to clarify the application of these provisions to property which existed on the 1975 lien date, but escaped taxation entirely and was not identified and placed on the roll prior to June 30, 1980 (or June 30, 1981, in the case of counties over four million in population). In these cases, it is the intent of the Legislature that any of these properties which escaped taxation shall be placed on the current roll even though the property was not discovered until after the dates of June 30, 1980, and June 30, 1981. Sec. 21 thereof provided reimbursement to local governments for costs mandated by the State pursuant to this act.

531.8. **Notice of Proposed Escape Assessment.** No escape assessment shall be enrolled under this article before 10 days after the assessor has mailed or otherwise delivered to the affected taxpayer a ''Notice

of Proposed Escape Assessment'' with respect to one or more specified tax years. The notice shall prominently display on its face the following heading:

''NOTICE OF PROPOSED ESCAPE ASSESSMENT''

The notice shall contain all of the following:

(a) The amount of the proposed escape assessments for each tax year at issue.

(b) The name and telephone number of a person at the assessor's office who is knowledgeable with respect to the proposed escape assessment or assessments and may be contacted with any questions with respect to the proposed assessment or assessments.

History.—Added by Stats. 1993, Ch. 387, in effect January 1, 1994. Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000, substituted "enrolled" for "levied" after "assessment shall be" in the first sentence of first paragraph, and substituted "telephone" for "phone" after "The name and" in the first sentence of subdivision (b).

531.9. **Escape assessment, low value exemption.** A county board of supervisors may, by ordinance, prohibit an assessor from making an escape assessment of an appraisal unit where that assessment would result in an amount of taxes due which is less than the cost of assessing and collecting them. In no event may the ordinance apply to any escape assessment of an appraisal unit if the amount of taxes resulting from the escape assessment would exceed fifty dollars ($50).

History.—Added by Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003.

532. **Statute of limitations.** (a) Except as provided in subdivision (b), any assessment made pursuant to either Article 3 (commencing with Section 501) or, this article shall be made within four years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(b) (1) Any assessment to which the penalty provided for in Section 504 must be added shall be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(2) Any assessment resulting from an unrecorded change in ownership or change in control for which either a change in ownership statement, as required by Section 480 or a preliminary change in ownership report, as required by Section 480.3, is not filed with respect to the event giving rise to the escape assessment or underassessment shall be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed. For purposes of this paragraph, an ''unrecorded change in ownership or change in control'' means a deed or other document evidencing a change in ownership that was not filed with the county recorder's office at the time the event took place.

(3) Notwithstanding paragraphs (1) and (2), in the case where property has escaped taxation, in whole or in part, or has been underassessed, following a change in ownership or change in control and either the penalty provided for in Section 503 must be added or a change in ownership statement, as required by Section 480.1 or 480.2 was not filed with respect to the event giving rise

to the escape assessment or underassessment, an escape assessment shall be made for each year in which the property escaped taxation or was underassessed.

(c) For purposes of this section, ''assessment year'' means the period defined in Section 118.

History.—Added by Stats. 1966, p. 663 (First Extra Session), in effect October 6, 1966, Stats. 1967, p. 3338, in effect November 8, 1967, substituted present language from beginning of the section to ". . . shall not create . . ." in the first sentence of the second paragraph. Stats. 1968, p. 1238, in effect November 13, 1968, substituted "July 1 of the assessment year" for "the lien date" in the first and second sentences of the first paragraph. Stats. 1969, p. 2192, in effect November 10, 1969, added "provided . . . October 6, 1971" in the first paragraph. Stats. 1970, p. 1072, in effect November 23, 1970, substituted "(commencing with Section 501) of this chapter, or pursuant to this article" for "or Article 4 of this Chapter 3", and substituted for the fiscal years . . ." for "in an assessment year commencing on July 1, 1966, and ending on June 30, 1967, such assessment shall be made on or before October 6, 1971," in the first paragraph. Stats. 1971, p. 1540, in effect March 4, 1972, added the fourth and fifth sentences commencing with "Assessments made pursuant . . ." in the second paragraph. Stats. 1973, Ch. 1190, p. 2504, in effect January 1, 1974, deleted former second, third and fourth paragraphs referring to an escape where the property has been transferred to or encumbered by a bona fide purchaser for value; the latter provisions were transferred with changes to section 531.2. Stats. 1981, Ch. 261, in effect January 1, 1982, deleted the balance of the second sentence, pertaining to property which had escaped taxation in the 1966–67 and 1967–68 fiscal years, after "underassessed". Stats. 1987, Ch. 537, in effect January 1, 1988, deleted "of this chapter" after "Section 501)" in the second sentence, and added the third sentence. Stats. 1994, Ch. 544, in effect January 1, 1995, substituted "(a) Except . . . any" for "Any" before "assessment", substituted "and any" for ". Any" after "underassessed", added "either" after "pursuant to", deleted comma after "501)", and substituted a comma for "pursuant to" after "or" in the first sentence of subdivision (a); deleted former third sentence of subdivision (a) which provided, " 'Assessment year' means the period defined in Section 118."; and added subdivisions (b) and (c). Stats. 1995, Ch. 497, in effect January 1, 1996, added "either" after "in which" and added "or a preliminary change in ownership report, as required by Section 480.3," after "or 480.2," in subdivision (b). Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, deleted "to which the penalty provided for in Section 504 must be added shall be made within six years after July 1 of the assessment year in which the property escaped taxation or was underassessed and any other assessment" after "any assessment" and deleted a comma after "or" in the first sentence of subdivision (a); deleted former subdivision (b) which provided, "In the case where property has escaped taxation, in whole or in part, or has been underassessed, following a change in ownership, the applicable limitations period specified in subdivision (a) shall not commence until July 1 of the assessment year in which either a change in ownership statement, as required by Section 480, 480.1, or 480.2, or a preliminary change in ownership report, as required by Section 480.3, is filed with respect to the event giving rise to the escape assessment or underassessment.", and added new subdivision (b). Stats. 2001, Ch. 613 (SB 1184), in effect January 1, 2002, substituted "eight" for "six" after "within" in the first sentence of paragraph (1) and added "or change in control" after the first "ownership" in the first sentence of paragraph (3) of subdivision (b).

Note.—Section 1(b) of Stats. 1987, Ch. 537, provided that the Legislature further finds and declares that the provisions of law relating to escape assessments are in no way inconsistent with Article XIII A of the California Constitution. An escape assessment merely reflects the amount by which the property has been underassessed and is a mechanism which permits the correction of the effects of that underassessment. The amount of the underassessment must be determined, however, in accordance with the applicable statutory valuation standards. Thus, an escape assessment is merely a mechanism for implementing existing property tax law and cannot be in conflict with it. Accordingly, the amendments to Sections 531.2 and 532 of the Revenue and Taxation Code made by this act are necessary to make clear that an escape assessment resulting from the correction of an error in a base-year value may be made within four, six, or eight years, as applicable, after the first day of July of the assessment year, as defined in Section 118 of the Revenue and Taxation Code, in which the property either wholly escaped taxation or was underassessed, as determined by applying the applicable Article XIII A valuation standards.

Note.—Section 5 of Stats. 2001, Ch. 613 (SB 1184) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 6 therein provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Construction.—The fact that section 532 provides two periods of limitation, a six-year period where there has been fraud and a shorter period in the absence of fraud, indicates the legislative intent to set a six-year limit irrespective of the time of discovery; therefore, there can be no implied extension of the period of undiscovered fraud. *Silver* v. *Watson,* 26 Cal.App.3d 905. As the result of Article XIII A of the Constitution, ''assessment year'' as used in this section must be construed as the year when the base value of the property was determined. Thus, where the base year value of a newly constructed warehouse was determined as of March 1, 1976, any error giving rise to an escape assessment is deemed to have occurred at that time, and to be timely the escape assessment had to have been made before March 1, 1980. *Dreyer's Grand Ice Cream, Inc.* v. *Alameda County,* 178 Cal.App.3d 1174.

This section does not conflict with Article XIII A of the Constitution. Under this section, escape assessments must be made within four years of July 1 of the assessment year, as defined in Section 118, in which property escaped taxation or was underassessed. Thus, escape assessments levied before July 1, 1987, based upon a change in ownership which resulted from a corporate reorganization on July 31, 1982, were made within four years of July 1, 1983, and hence, were not barred by the statute of limitations. *Blackwell Homes* v. *Santa Clara County,* 226 Cal.App.3d 1009. The provisions

governing time limitations for supplemental assessments do not affect the existing statutes of limitations for making escape assessments. Thus, even if supplemental assessments are barred as untimely, escape assessments may be made within the time limitations of this section. *Montgomery Ward & Co. Inc.* v. *Santa Clara County*, 47 Cal.App.4th 1122.

The four-year limit did not bar a possessory interest assessment against a cable television company for the 1982 base year, notwithstanding that the county assessor had never acted to levy such an assessment for that year, where in 1982 and 1983 the company had received statements for taxes attributed to its possessory interests and paid those taxes, and where, although in 1985 the county board of supervisors had adopted a resolution to delete possessory interest assessments levied against the company for 1982 through 1985, the company had not received a corresponding refund. *Stanislaus County* v. *Assessment Appeals Board,* 213 Cal.App.3d 1445.

532.1. **Pre 1971–1972 possessory interest in timber lands.** [Repealed by Stats. 1981, Ch. 261, in effect January 1, 1982.]

532.1. **Extension of time for making escape assessment.** (a) If, before the expiration of the period specified in Section 532 for making an escape assessment, the taxpayer and the assessor have agreed in writing to extend the time for making an assessment, correction, or claim for refund, the assessment may be made at any time prior to the expiration of the period agreed upon. The period may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) If the assessor mails or otherwise delivers a ''Notice of Proposed Escape Assessment'' under Section 531.8 as to any assessment year for which the period for making an escape assessment, including any extension pursuant to subdivision (a), will expire in less than 90 days after the date of mailing or delivery of that notice, then that period, and any limitations period on the filing of a refund claim with respect to the same assessment year, shall be extended to the 90th day after the date of mailing or delivery. Subsequent mailings or deliveries of a ''Notice of Proposed Escape Assessment'' for the same assessment year shall not establish any further extension.

History.—Added by Stats. 1983, Ch. 1224, in effect January 1, 1984. Stats. 1993, Ch. 387, in effect January 1, 1994, added subdivision letter (a) before first paragraph, and added subdivision (b).

532.2. **Escaped property, possessory interests of Zoological Society.** [Repealed by Stats. 1981, Ch. 261 in effect January 1, 1982.]

532.2. **Escaped real property; welfare exemption.** Notwithstanding Section 532, the assessor shall assess as escaped property any property for which a welfare exemption was granted while that property was ''in the course of construction,'' as defined in Section 214.2, if either of the following occurs:

(a) Construction is abandoned.

(b) Upon completion of the construction, the property is used other than exclusively for religious, hospital, or charitable purposes. If, upon completion of construction, a portion of the property is used other than exclusively for religious, hospital, or charitable purposes, the assessor shall assess as escaped property only that portion of the property so used.

History.—Added by Stats. 1991, Ch. 897, in effect January 1, 1992. Stats. 1992, Ch. 1180, in effect January 1, 1993, substituted ''shall'' for ''may'' after ''assessor'' in the first paragraph; and added ''If, upon . . . so used.'' after ''purposes'' as the second sentence of subdivision (b).

532.3. **Escape assessments.** [Repealed by Stats. 1995, Ch. 497, in effect January 1, 1996.]

532.5. **Assessor's error; penalties and payments.** [Repealed by Stats. 1983, Ch. 1224, in effect January 1, 1984.]

533. **Entry on roll.** Assessments made pursuant to Article 3 (commencing with Section 501) of this chapter or pursuant to this article shall be entered on the roll for the current assessment year as defined in Section 118 and, if this is not the roll for the assessment year in which the property escaped assessment, the entry shall be followed with ''Escaped assessment for year 19___ pursuant to Sections _____ of the Revenue and Taxation Code.''

If the assessments are made as a result of an audit which discloses that property assessed to the party audited has been incorrectly assessed either for a past tax year for which taxes have been paid and a claim for refund is not barred by Section 5097 or for any tax year for which the taxes are unpaid, the tax refunds resulting from the incorrect assessments shall be an offset against proposed tax liabilities, including accumulated penalties and interest, resulting from escaped assessments for any tax year covered by the audit.

Beginning with the 1981–82 fiscal year, assessment for the current and prior year shall be entered using a 100 percent assessment ratio and the tax rate for years prior to the 1981–82 fiscal year will be divided by four.

If such tax refunds exceed any proposed tax liabilities, including accumulated penalties and interest, the party audited shall be notified by the tax collector of the amount of the excess and of the fact that a claim for cancellation or refund may be filed with the county as provided by Section 5096 or 5096.7. In the event that the assessment caused an excess payment of taxes and therefore resulted in an overpayment by the state for property tax relief as provided by Section 219, then subsequent subventions for property tax relief shall be reduced by the amount of such overpayment.

History.—Stats. 1967, p. 3339, in effect November 8, 1967, substituted present language from beginning of the section to ". . . shall be entered . . ." and added clause beginning ". . . pursuant to Sections . . ." at end. Stats. 1970, p. 1036, in effect November 23, 1970, added the second paragraph. Stats. 1978, Ch. 732, in effect January 1, 1979, deleted in the first sentence of the second paragraph the words "erroneously or illegally" and replaced them with "incorrectly". Also added the words "covered by the audit" to the end of that sentence. In the second sentence of the second paragraph deleted the word "the" and replaced it with "any"; and also deleted the words "for this year" and replaced them with "and the State Controller". Also the last sentence of the second paragraph was added. Stats. 1979, Ch. 518, in effect January 1, 1980, substantially revised second paragraph to allow offsets against any proposed tax liability resulting from audit rather than limiting offsets to proposed escapes. Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981, substituted "for the current assessment year as defined in Section 118" for "prepared or being prepared in the assessment year when it is so discovered" and "the property" for "it" before "escaped" in the first paragraph, and, deleted "4986" after "Section" and added "or 5096.7" after "5096" in the second sentence of the second paragraph. Stats. 1980, Ch. 1208, in effect January 1, 1981, added the third paragraph.

Failure to make entry on roll.—Where the assessor treated city-owned water rights as having escaped assessment but did not make the entry on the roll as required by this section, the court did not decide the matter on that basis but, based upon the evidence, held that the method used by the assessor was incorrect and resulted in an excessive assessment of those rights. *City of Los Angeles* v. *County of Inyo,* 167 Cal.App.2d 736.

534. **Procedure after assessment.** (a) Assessments made pursuant to Article 3 (commencing with Section 501) or this article shall be treated like, and taxed at the same rate applicable to, property regularly assessed on the roll on which it is entered, unless the assessment relates to a prior year and then the tax rate of the prior year shall be applied, except that the tax rate for years prior to the 1981–82 fiscal year shall be divided by four.

(b) No assessment described in subdivision (a) shall be effective for any purpose, including its review, equalization and adjustment by the Board of Equalization, until the assessee has been notified thereof personally or by United States mail at his or her address as contained in the official records of the county assessor. For purposes of Section 532, the assessment shall be deemed made on the date on which it is entered on the roll pursuant to Section 533, if the assessee is notified of the assessment within 60 days after the statute of limitations or the placing of the escape assessment on the assessment roll. Otherwise the assessment shall be deemed made only on the date the assessee is so notified.

(c) The notice given by the assessor pursuant to this section shall include all of the following:

(1) The date the notice was mailed.

(2) Information regarding the assessee's right to an informal review and the right to appeal the assessment, and except in a case in which paragraph (3) applies, that the appeal shall be filed within 60 days of the date of mailing printed on the notice or the postmarked date therefor, whichever is later. For the purposes of equalization proceedings, the assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(3) For counties in which the board of supervisors has adopted a resolution in accordance with subdivision (c) of Section 1605, and the County of Los Angeles, the notice shall advise the assessee of the right to appeal the assessment, and that the appeal shall be filed within 60 days of the date of mailing printed on the tax bill or the postmark therefor, whichever is later. For the purposes of equalization proceedings, the assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(4) A description of the requirements, procedures, and deadlines with respect to an application for the reduction of an assessment pursuant to Section 1605.

(d) (1) The notice given by the assessor under this section shall be on a form prescribed by the board.

(2) Giving of the notice required by Section 531.8 shall not satisfy the requirements of this section.

History.—Stats. 1961, p. 4229, in effect September 15, 1961, added the phrase "and taxed at the same rate applicable to." In Sec. 6 of Stats. 1961. p. 4230, the Legislature stated that the 1961 amendment to this section did not constitute a change in, but was declaratory of, the pre-existing law, and that said amendment shall apply to escape assessments made prior to its effective date. Stats. 1967, p. 3339, in effect November 8, 1967, revised section so that only portion in first sentence beginning ". . . shall be treated . . ." and ending ". . . on which it is entered . . ." of prior section was retained. Stats. 1978, Ch. 732, in effect January 1, 1979, added the last sentence to the second paragraph. Stats. 1979, Ch. 518, in effect January 1, 1980, deleted last sentence of second paragraph relating to assessments being subject to provisions of §§ 499 and 1605. Stats. 1980, Ch. 1208, in effect January 1, 1981, added "except that the tax rate for years prior to the 1981–82 fiscal year shall be divided by four" after "applied" in the first paragraph. Stats. 1981, Ch. 462, in effect January 1, 1982, added the second sentence to the second paragraph. Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, added subdivision designation (a) to the former first paragraph, and deleted "of this chapter" after "Section 501)" and deleted "pursuant to" after "or" in the first sentence therein; added subdivision designation (b) to the former second paragraph, deleted "such" after "No", added "described in subdivision (a)" after the first "assessment", and added "or her" after "his" in the first sentence, substituted "the" for "such" after "Section 532," added a comma after "Section 533", and substituted a period for a semicolon after "assessment roll" in the second sentence, created a third

sentence with the balance of the former second sentence commencing with "otherwise", and substituted "Otherwise the" for "otherwise, such" before "assessment shall" therein, and deleted the former third sentence which provided, "Receipt of the assessee of a tax bill based on such assessment shall suffice as such notice."; and added subdivisions (c) and (d). Stats. 2001, Ch. 744 (SB 1182), in effect January 1, 2002, deleted "supplemental" before the first "assessment" in the second sentence of paragraph (2), and added "and the County of Los Angeles," after "Section 1605," in the first sentence and deleted "supplemental" before the first "assessment" in the second sentence of paragraph (3) of subdivision (c).

Note.—Section 10 of Stats. 2001, Ch. 744 (SB 1182) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

534.5. **Certain tax payments payable over three years.** [Repealed by Stats. 1983, Ch. 1224, in effect January 1, 1984.]

535. **Intangibles.** This article does not apply to intangibles.

536. **State reimbursement of local taxing agencies.** Any amount paid by the state to reimburse local taxing agencies for loss of revenue resulting from incorrectly allowed exemptions, if not repaid to the state, shall be deducted under Section 12419.5 of the Government Code from the next reimbursement to such agencies.

The county auditor shall notify the State Controller of all incorrectly allowed exemptions for which local taxing agencies have been reimbursed by the state for loss of revenue, and all escape assessments made because thereof.

History.—Added by Stats. 1970, p. 1070, in effect November 23, 1970. Stats. 1971, p. 3531, in effect March 4, 1972, operative January 1, 1972, added the second paragraph.

537. **Incorrect payment.** [Repealed by Stats. 1981, Ch. 261, in effect January 1, 1982.]

538. **Assessors required to bring suit.** (a) If the assessor believes that a specific provision of the Constitution of the State of California, of this division, or of a rule or regulation of the board is unconstitutional or invalid, and as a result thereof concludes that property should be assessed in a manner contrary to such provision, or the assessor proposes to adopt general interpretation of a specific provision of the Constitution of the State of California, or this division, or of a rule or regulation of the board, that would result in a denial to five or more assessees in that county of an exemption, in whole or in part, of their property from property taxation, the assessor shall, in lieu of making such an assessment, bring an action for declaratory relief against the board under Section 1060 of the Code of Civil Procedure. The court shall allow intervention in such action by potential assessees and other assessors under Section 387 of the Code of Civil Procedure to the greatest extent practicable.

(b) If the assessor obtains judgment in such action upholding the validity of such assessment, the assessor shall correct the roll in accordance with Section 4831 consistent with such judgment within 60 days of the date upon which the judgment becomes final, regardless of the time limit otherwise provided in Section 4831. The assessor shall not levy an assessment based upon the subject matter of the action under any other section of this division.

(c) Within 60 days of notice of such assessment, a person assessed under subdivision (b) may file a claim for refund relating to the assessment of any of the person's property for the fiscal year to which the assessment under subdivision (b) relates regardless of the time limit otherwise provided in Section 5097.

History.—Added by Stats. 1978, Ch. 1188, in effect September 26, 1978.

Assessment contrary to rule.—An assessor disagreeing with property tax rule 4 should have brought a declaratory relief action against the Board pursuant to this section rather than making an assessment against real property without following the dictates of the rule. Since he did not do so, attorneys fees were properly awarded under Section 5152. *Prudential Insurance Co.* v. *City and County of San Francisco,* 191 Cal.App.3d 1142.

Article 5. Tax-deeded Property

565. **Assessing redeemed property.** [Repealed by Stats. 1985, Ch. 316, effective January 1, 1986.]

566. **Valuation for unassessed years.** [Repealed by Stats. 1985, Ch. 316, effective January 1, 1986.]

567. **Assessment of redeemed property.** [Repealed by Stats. 1985, Ch. 316, effective January 1, 1986.]

568. **Assessment of property tax deeded to state.** [Repealed by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981.]

568. **Assessment of property tax deeded to state.** (a) All property which has been declared tax defaulted, whether or not subject to a power of sale by the tax collector for defaulted taxes, shall be assessed. The assessment shall be entered, in the name of the assessee on the secured roll.

(b) All property which was tax-deeded to the state prior to the enactment of Chapter 988 of the Statutes of 1984 and was unassessed because of the tax deed to the state shall be assessed as if the tax deed was never issued.

History.—Added by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981. Stats. 1985, Ch. 316, effective January 1, 1986, added "(a)" before "All", substituted "which has been declared tax defaulted, . . . defaulted taxes" for "tax deeded to the state" after "property", and deleted "as though the property were subject to taxation" after "assessed" in the first sentence; substituted "assessee on the secured roll" for "state, and taxes extended on either:" and former subsections (a) and (b) after "the" in the second sentence; and substituted subdivision (b) for the former second paragraph which provided "Assessments made under this section are for the purpose of facilitating tax accounting in connection with determining the amounts necessary to redeem tax-deeded property and the distribution of proceeds received from the sale of tax-deeded property. The property shall be treated for all other purposes as though not subject to taxation."

Article 6. Assessment Roll

601. **Preparation of roll.** The assessor shall prepare an assessment roll, as directed by the board, in which shall be listed all property within the county which it is the assessor's duty to assess.

602. **Contents.** This local roll shall show:

(a) The name and address, if known, of the assessee. The assessor is not required to maintain electronic mail addresses.

(b) Land, by legal description.

(c) A description of possessory interests sufficient to identify them.

(d) Personal property. A failure to enumerate personal property in detail does not invalidate the assessment.

(e) The assessed value of real estate, except improvements.

(f) The assessed value of improvements on the real estate.

(g) The assessed value of improvements assessed to any person other than the owner of the land.

(h) The assessed value of possessory interests.

(i) The assessed value of personal property, other than intangibles.

(j) The revenue district in which each piece of property assessed is situated.

(k) The total taxable value of all property assessed, exclusive of intangibles.

(*l*) Any other things required by the board.

History.—Stats. 1967, p. 1636, in effect November 8, 1967, substituted "assessed" for "cash" in subdivisions (e) through (i). Stats. 1973, Ch. 842, p. 1508, in effect January 1, 1974, deleted former subdivision (l) dealing with solvent credits and relettered subdivision (l) as subdivision (l). Stats. 1979, Ch. 813, in effect January 1, 1980, operative July 1, 1980, added "full and complete" after "the" in subsection (a). Stats. 1981, Ch. 186, in effect January 1, 1982, deleted "full and complete" before "name" in subdivision (a). Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000, added the second sentence to subdivision (a).

Note.—Section 3 of Stats. 1979, Ch. 813, provided notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to those sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

Identical ownership of several parcels.—When a person owns several parcels, it is sufficient if his name appears but once, followed by the description and valuation of each parcel, *Gottstein* v. *Kelly,* 206 Cal. 742; *Davis* v. *Day,* 98 Cal.App. 557.

Dollar mark.—The omission from the columns designed to show the value of the property and the amount of taxes of a dollar mark or other explanation to indicate the meaning of the figures listed renders the assessment void. *Fox* v. *Townsend,* 152 Cal. 51; *Secombe* v. *Louis Phillips Estate,* 162 Cal. 161. The mere absence of a dollar mark from a column in which is listed the value of a certain class of property is cured if the mark appears in the heading of the column showing the total value of all property. *Knobloch* v. *Associated Oil Co.,* 170 Cal. 144. In an action to recover taxes paid under protest the fact that the dollar mark was omitted on the assessment roll is immaterial, *H. & W. Pierce, Inc.* v. *Santa Barbara County,* 40 Cal.App. 302.

Improvements.—No description of improvements is necessary; a description of the land sufficiently identifies the improvements. *Lahman* v. *Hatch,* 124 Cal. 1. The erroneous listing of improvements as personal property is cured by Section 24. *California Domestic Water Co.* v. *Los Angeles County,* 10 Cal.App. 185.

Surplusage.—The inclusion on the roll of matter not required to appear does not render an assessment invalid. *Lake County* v. *Sulphur Banks Quicksilver Mining Co.,* 68 Cal. 14. Cf. *San Francisco* v. *Phelan,* 61 Cal. 617; *Salisbury* v. *Shirley,* 66 Cal. 223.

Personal Property.—No segregation of value of cattle from value of feed is necessary; assessment on the combined property is proper. *Domenghini* v. *San Luis Obispo County,* 40 Cal.App.3d 689.

Land.—For requirements as to description of land see Chapter 2.

603. **Government owned property.** [Repealed by Stats. 1982, Ch. 468, in effect January 1, 1983.]

606. **Land in multiple revenue districts.** (a) Except as provided in subdivisions (b) and (c), when any tract of land is situated in two or more revenue districts, the part in each district shall be separately assessed.

(b) Where the owner of two or more contiguous parcels comprising the tract is identical, and the full value of any parcel is less than twenty-five thousand dollars ($25,000), that parcel may be combined with the contiguous parcel with the greatest assessed valuation.

(c) Where the owner of two or more contiguous parcels comprising the tract is identical, and the tract of land is being used for a single-family residence and constitutes 45,000 square feet or less, the smallest parcel may be combined with the largest contiguous parcel.

History.—Stats. 1978, Ch. 375, in effect January 1, 1979 added the balance of the sentence after "separately assessed". Stats. 1988, Ch. 560, in effect January 1, 1989, substituted "." for "; provided," after "assessed"; and substituted "However" for "however", substituted "two thousand" for "four hundred" after "than", substituted "$2,000" for "$400" after "dollars", and substituted "or that amount which is determined exempt pursuant to Section 155.20, that" for "such" after "($2,000)," in the second sentence. Stats. 1992, Ch. 663, in effect September 14, 1992, added "(a) Except . . . (c)," at the beginning of the first sentence; substituted "(b)" for "However," at the beginning of the second sentence, and substituted "five thousand dollars ($5,000)" for "two thousand dollars ($2,000), or that amount which is determined exempt pursuant to Section 155.20" after "than" therein; and added subdivision (c). Stats. 2001, Ch. 613 (SB 1184), in effect January 1, 2002, substituted "twenty-five" for "five" after "less than" and substituted "($25,000)" for "($5,000)" after "dollars" in the first sentence of subdivision (b), and substituted "45,000" for "15,000" after "constitutes" in the first sentence of subdivision (c).

Note.—Section 5 of Stats. 2001, Ch. 613 (SB 1184) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 6 therein provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

607. **Land and improvements.** Land and improvements thereon shall be separately assessed.

Leasehold improvements.—Where lessee savings and loan association made improvements on leased buildings, such improvements were subject to assessment and tax. *Citizens' Federal Savings & Loan Ass'n* v. *City and County of San Francisco,* 202 Cal.App.2d 358.

A tenant, under a lease which does not provide for tax payment and which authorizes the tenant to construct improvements upon the property which the tenant may remove during the term of the lease, is liable for the increased taxes caused by the improvements. *Lawrence* v. *F. W. Woolworth Co.,* 63 Cal.2d 119.

Delayed assessment.—Where a county assessor made a delayed assessment on improvements that he believed had escaped assessment, the delayed assessment was valid in that the improvements were to be assessed separately from the land itself. *Jensen* v. *Byram,* 229 Cal.App.2d 651.

Note.—See Constitution, Article XIII, Section 13.

607.5. **"Mining rights" or "mineral rights."** In the event that a separate assessment of rights and privileges appertaining to mines or minerals and land is made, the descriptive words ''mining rights'' or ''mineral rights'' on the assessment roll shall include the right to enter in or upon the land for the exploration, development and production of minerals, including oil, gas, and other hydrocarbons.

History.—Added by Stats. 1955, p. 2057, in effect September 7, 1955.

Generally.—Without evidence of the existence of a reasonably probable market in certain tax years for the sale in separate form of an oil company's rights of surface entry for exploitation of its mineral rights, there was no support for an assessment which included, in an approximate $80 per acre assessment of the mineral rights, $58 per acre as the market value of the rights of surface entry. *Union Oil Co.* v. *Ventura County,* 41 Cal.App.3d 432. The conveyance of a mineral interest in land creates two separate estates in the land, each of which is subject to taxation and thus may be separately taxed. If the mineral interest is for so long as minerals can be extracted in paying quantities, the interest is perpetual and is considered to be a fee interest, which is a freehold estate. If the interest is for a term of years, it is considered to be a chattel real, but is nevertheless an estate in land that is subject to taxation separate from the remaining interests. *Howard* v. *Amador County,* 220 Cal.App.3d 962.

Valuation.—For property tax purposes, oil and gas leases, which involve income-producing properties, are ordinarily evaluated based on the income capitalization method of appraisal. *Dominguez Energy, L.P.* v. *Los Angeles County,* 56 Cal.App.4th 839.

608. **Improvement.** Improvements shall be assessed by the assessor by showing their value opposite the description of the parcel of land on which they are located, if they are assessed to the same assessee.

History.—Stats. 1947, p. 1871, in effect June 17, 1947, added last clause.

609. **Improvements on exempt land.** Taxable improvements on land exempt from taxation shall be shown like other real estate on the roll. Value shall not be assessed against the exempt land and the land does not become responsible for the assessment made against the taxable improvements.

610. **Other claimants of property.** (a) Land once described on the roll need not be described a second time, but any person, claiming and desiring to be assessed for it, may have his or her name inserted with that of the assessee.

(b) A person is ''claiming'' property for purposes of subdivision (a) only if he or she provides the assessor with one of the following supporting documents:

(1) A certified copy of a deed, judgment, or other instrument that creates or legally verifies that person's ownership interest in the property.

(2) A certified copy of a document creating that person's security interest in the property.

(3) His or her declaration, under penalty of perjury, that he or she currently has possession of the property and intends to be assessed for the property in order to perfect a claim in adverse possession.

History.—Stats. 1992, Ch. 395, in effect January 1, 1993, added the subdivision designation "(a)"; added "or her" after "his" in the first sentence of subdivision (a); and added subdivision (b).

611. **Unknown owners.** If the name of an absent owner is known to the assessor, or in the case of real property, if it appears of record in the office of the county recorder, the property shall be assessed to such owner; otherwise, the property shall be assessed to unknown owners.

History.—Stats. 1941, p. 1212, in effect April 22, 1941, restricted to real property the reference to county records.

612. **Owners' representatives.** When a person is assessed as agent, trustee, bailee, guardian, conservator, executor, or administrator, his representative designation shall be added to his name, and the assessment entered separately from his individual assessment.

History.—Stats. 1979, Ch. 730, in effect January 1, 1980, operative January 1, 1981, added "conservator," after "guardian," in the first sentence of the first paragraph.

Designation of capacity.—When property is assessed to a person as administrator, it is immaterial whether he is a special or general administrator. *City and County of San Francisco* v. *Pennie,* 93 Cal. 465. When the assessor is not advised of the names of the principals until subsequent to the assessment, his failure to show the representative character of the assessee and to designate the principals does not invalidate the assessment, *S. & G. Gump Co.* v. *City and County of San Francisco,* 18 Cal.2d 129.

Liability of administrator.—The liability of an administrator is official and not personal, and such liability is assumed by his successor, *City and County of San Francisco* v. *Pennie,* supra. See also *Los Angeles County* v. *Morrison,* 15 Cal.2d 368.

Tax-exempt property.—If property held in the capacity of bailee is tax-exempt, any assessment of it would be self-defeating for the tax could not be assessed against the property or its possessor personally, at least where the bailee's interest in the property could not be transferred. *General Dynamics Corp.* v. *Los Angeles County,* 51 Cal.2d 59.

613. **Mistake in owner's name.** A mistake in the name of the owner or supposed owner of real estate does not render invalid an assessment or any deed to a purchaser at a tax sale.

A mistake in the name of an owner or supposed owner of property on the unsecured roll which does not prevent the person from reasonably ascertaining that he or she is the assessee does not render invalid an assessment or any tax sale.

History.—Stats. 1973, Ch. 675, p. 1230, in effect January 1, 1974, added the second paragraph. Stats. 1985, Ch. 316, effective January 1, 1986, added "deed to a purchaser at a" after "or any" in the first paragraph and added "or she" after "he" in the second paragraph.

Assessments.—A failure to state correctly the name of the owner is cured by this section, *Interstate Realty etc. Co.* v. *Clark,* 77 Cal.App. 558. When a portion of the land described in an assessment is not owned by the assessee, the defect is likewise cured by this section, *Klumpke* v. *Baker,* 131 Cal. 80. *Contra, Teater* v. *Johnson,* 95 Cal.App. 182. This section relieves the assessor of the obligation to avoid abbreviations in assessing realty. *Markowitz* v. *Carpenter,* 94 Cal.App.2d 667.

In view of this section the value of gas and oil rights held in separate ownership may be included in the assessment to the owner of the balance of the fee, and a tax deed based on such an assessment includes the gas and oil rights. *McCracken* v. *Hummel,* 43 Cal.App.2d 302.

An assessment is not invalid or irregular because not made in the name of the remainderman as well as in the name of the holder of the life estate. *Clayton* v. *Schultz,* 4 Cal.2d 425.

Not applicable to tax deed.—The failure of a tax deed to recite correctly the name of the assessee is not cured by this section. *Henderson* v. *De Turk,* 164 Cal. 296; *Bruschi* v. *Cooper,* 30 Cal.App. 682.

Special assessments.—This section has no application to an assessment by a reclamation district. *Weinreich* v. *Hensley,* 121 Cal. 647.

614. **Tax-defaulted property.** After each assessment of tax-defaulted property the assessor shall enter on the roll the fact that it is tax defaulted and the date of the declaration of default.

History.—Added by Stats. 1939, Ch. 154, effective January 1, 1940. Stats. 1985, Ch. 316, effective January 1, 1986, substituted "tax-defaulted" for "tax-sold" after "assessment of", substituted "is tax defaulted" for "has been sold for taxes" after "it" and substituted "declaration of default" for "sale" after "of the".

Sufficiency of recital—Noncompliance cured by tax deed.—Neither the date of the sale nor the exact words "sold for taxes" are necessary. Any language which notifies the owner of the sale is sufficient. *Carter* v. *Osborne,* 150 Cal. 620. In any event, under Section 3518, failure to comply with this section is cured by the tax deed. *Bank of Lemoore* v. *Fulgham,* 151 Cal. 234.

615. **Index.** The assessor shall prepare an index to the local roll, in the form prescribed by the board, showing the name of the assessee, each place therein where his assessment appears, and any other information required by the board. This index shall be delivered to the tax collector on or before the delivery of the extended roll.

History.—Stats. 1967, p. 1959, in effect November 8, 1967, changed "taxpayer" to "assessee" and deleted clause "or each assessment number under which his assessment appears" after ". . . where his assessment appears . . ." in the first sentence; and added the last sentence.

616. **Assessor's affidavit.** On or before July 1, annually, the assessor shall complete the local roll. He shall make and subscribe an affidavit on the roll substantially as follows:

"I, _____, Assessor of _____ County, swear that between the lien date and July 1, 19__, I have made diligent inquiry and examination to ascertain all the property within the county subject to assessment by me, and that it has been assessed on the roll, according to the best of my judgment, information, and belief, at its value as required by law; and that I have faithfully complied with all the duties imposed on the assessor under the revenue laws; and that I have not imposed any unjust or double assessment through malice, ill will, or otherwise; nor allowed anyone to escape a just and equal assessment through favor, reward, or otherwise."

The failure to make or subscribe this affidavit, or any affidavit, does not affect the validity of the assessment.

The assessor may require from any of his deputies an affidavit on the roll similar to his own.

History.—Stats. 1966, p. 664 (First Extra Session), in effect October 6, 1966, substituted "July 1" for "first Monday in July" in the first sentence, and "lien date" for "first Mondays in March" and "July 1" for "July" in the affidavit form.

617. **Delivery to auditor.** As soon as the assessor completes the local roll, he shall deliver it to the auditor.

History.—Stats. 1966, p. 665 (First Extra Session), in effect October 6, 1966, first operative for the 1967–68 assessment year, substituted "auditor" for "clerk of the board of supervisors, who is ex officio clerk of the county board."

Assessor not required to furnish additional information.—A contract by a city council with a private person for an abstract of the assessment rolls showing detailed data is not illegal as being part of the assessor's duties under this section. *Maurer* v. *Weatherby,* 1 Cal.App. 243.

Delivery of roll terminates assessor's power to make changes.—After delivery of the roll to the board of equalization the assessor has no power to change any assessments unless authorized by the board of supervisors or the district attorney under Sections 1611 and 4834. *Savings & Loan Society* v. *San Francisco,* 146 Cal. 673, 676.

618. **Contents of machine-prepared roll.** Notwithstanding any other provisions of state law, when the assessment roll is a machine-prepared roll the contents of the roll and the arrangement of property on the roll may be prescribed by the board.

History.—Added by Stats. 1957, p. 963, in effect September 11, 1957. Stats. 1961 p. 4048, in effect September 15, 1961, substituted "of state law" for "of this article."

619. **Notification of amount of assessment.** [Repealed by Stats. 1997, Ch. 940 (SB 1105), in effect January 1, 1999.]

619. **Notification of amount of assessment.** (a) Except as provided in subdivision (f), the assessor shall, upon or prior to completion of the local roll, do either of the following:

(1) Inform each assessee of real property on the local secured roll whose property's full value has increased over its full value for the prior year of the assessed value of that property as it shall appear on the completed local roll.

(2) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his or her real property or of both his or her real and his or her personal property as it shall appear on the completed local roll.

(b) The information given by the assessor to the assessee pursuant to paragraph (1) or (2) of subdivision (a) shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1607 and the manner in which the assessee may request use of this procedure.

(c) In the case of an increase in a property's full value that is determined pursuant to paragraph (1) of subdivision (a) over the property's full value determined for the prior year in accordance with paragraph (2) of subdivision (a) of Section 51, the information shall also include the base year value of the property, compounded annually from the base year to the current year by the appropriate inflation factors.

(d) The information shall be furnished by the assessor to the assessee by regular United States mail directed to him or her at his or her latest address known to the assessor.

(e) Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(f) This section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for purposes of property tax limitation determinations.

(g) This section does not apply to increases in assessed value caused solely by changes in the assessment ratio provided for in Section 401.

(h) This section shall become operative on January 1, 1999.

History.—Added by Stats. 1997, Ch. 940 (SB 1105), in effect January 1, 1998. Stats. 1998, Ch. 695 (SB 2235), in effect January 1, 1999, deleted "of Section 51" before "over the", substituted "subdivision (a) of Section 51" for "that same subdivision" after "paragraph (2) of" and substituted "base year value" for "full cash value base"after "include the" in the first sentence of subdivision (c).

Affecting validity of assessment.—Failure of the assessor to notify the assessee of an increase in assessed value as required by this section voided that portion of the tax based on the increased assessment in absence of the taxpayer's participation in an equalization proceeding. *Gaumer* v. *Tehama County,* 247 Cal.App.2d 548.

Failure of the assessor to notify the assessee of an increase in assessed value as required by this section voided that portion of the tax based on the increased assessment in absence of the taxpayer's participation in an equalization proceeding. *Tamco Development Co.* v. *Del Norte County,* 260 Cal.App.2d 929.

619.1. **Notification of assessment; address to which sent.** [Repealed by Stats. 1984, Ch. 678, in effect January 1, 1985.]

619.2. **Notification of assessment; personal property.** Where the personal property on the secured roll of a person not required to file a property statement pursuant to Section 441 is assessed in excess of one thousand dollars ($1,000), excluding household furnishings and personal effects, the assessor, on or before July 15, may notify the assessee of the full value, the assessed value of such property, and the ratio used in the manner prescribed by Sections 619 and 619.1.

If the assessee does not receive notice of the assessment pursuant to this section, the assessee may pay taxes based upon such assessment under protest and obtain equalization of the assessment in the same manner as set forth in Section 620.

History.—Added by Stats. 1968, p. 2293, in effect November 13, 1968. Stats. 1969, p. 896, in effect November 10, 1969, added "not" in the first line of the second paragraph. Stats. 1974, Ch. 311, p. 609, in effect January 1, 1975, substituted "full value" for "full cash value" in the first sentence of the first paragraph. Stats. 1978, Ch. 1207, in effect January 1, 1979, operative January 1, 1981, substituted "one thousand dollars ($1,000)" for "two hundred fifty dollars ($250)" in the first paragraph.

619.15. **Notification of possible reduction in assessment; deferment of payment.** [Repealed by Stats. 1980, Ch. 1081, in effect June 30, 1982.]

620. **Payment under protest.** If the assessor does not send a notice pursuant to Section 619 or Section 621 to an assessee whose property was not on the prior year's secured roll, or to an assessee of real property on the local secured roll whose property's full value has increased, then such assessee may pay taxes under protest. If payments are made in installments, the protest need not be repeated with the second installment. Protests shall be made by filing with the tax collector, together with the payment of the taxes or their first installment, a petition for assessment reduction on the form prescribed by the county board, which form the collector is to forward to the clerk of the county board with the notation that taxes were paid under protest pursuant to this section. The county board may, after receipt of the petition for assessment reduction from the tax collector, hold a public hearing at the next regular board meeting, notice of time and place of which shall be sent to the person paying the tax under protest at the address stated in the protest or if no such address is stated, then to the address of the assessee according to the last equalized assessment roll. If the taxes are so paid and the assessee has not previously applied for a reduction of the assessment, the county board at its next annual meeting as an equalization board shall thereupon equalize such assessment in the manner prescribed by Article 1 (commencing with Section 1601) of Chapter 1 of Part 3 of this division.

The tax rate fixed for property on the roll on which the property so equalized appears at the time of its original assessment shall be applied to the amount of the equalized assessment, determined in accordance with the preceding paragraph. In the event that the resulting figure is less than the tax theretofore computed, the taxpayer shall be liable for tax only for the lesser amount, and the difference shall be canceled. If the taxpayer has already paid

the tax previously computed, such difference shall be refunded to him pursuant to Chapter 5 (commencing with Section 5096) of Part 9 of this division, as an erroneously collected tax.

If any taxes are paid under protest pursuant to this section, the taxing agency to which the taxes are paid may, in accordance with Section 26906.1 of the Government Code, impound such taxes until the final disposition of the claim or action respecting the protest. No such impounding is required.

History.—Added by Stats. 1965, p. 4331, operative July 1, 1966. Stats. 1967, p. 2059, in effect July 11, 1967, substituted first sentence for previous one, and inserted the fourth sentence beginning "The county board may, . . ." Stats. 1968, p. 1119, in effect July 3, 1968, added "or to an assessee of real property on the local secured roll whose property's full cash value has increased." Stats. 1969, p. 1365, in effect November 10, 1969, added "or Section 622" in the first sentence of the first paragraph. Stats. 1970, p. 1074, in effect November 23, 1970, substituted "621" for "622" in the first sentence of the first paragraph, and substituted "of" for "," before "chapter" in the fifth sentence of the first paragraph. Stats. 1974, Ch. 311, p. 609, in effect January 1, 1975, substituted "full value" for "full cash value" in the first sentence of the first paragraph.

620.5. **Property acquired between lien date and beginning of fiscal year.** [Repealed by Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003.]

621. **Notification by publication.** In any county the assessor, with the approval of the board of supervisors, may give the information required by Section 619, and similar information with reference to personal property, as an alternative to giving the information by United States mail, by having published lists of assessments in newspapers, or both. In counties of more than 4 million population and counties of more than 1 million population, as determined by the July 1, 1965, Department of Finance revised estimate, which are contiguous to a county with more than 4 million population, the assessor, with the approval of the board of supervisors, may divide the county into publication areas not to exceed five in number. Within such areas the assessment listings may be grouped by assessment map books, by post office zones or by such other arrangements as may be determined by the assessor as most likely to give notice to assessees and as practicable for publication in local newspapers. The complete assessment data of one such area may be printed in one year, and for other areas in successive years as directed by him until the full county is covered. Each year at least all changes of assessment listings for all the areas shall be printed, together with a notice that no changes were made with regard to properties not on the list of changes, so that all changes will be on a current basis for the entire county. Newspapers for the publications shall be selected as they are for publication of the delinquent tax lists and the rate paid for the advertising shall be the same.

Neither the failure of the assessee to receive this information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

History.—Added by Stats. 1966, p. 665 (First Extra Session), in effect October 6, 1966, first operative for the 1967–68 assessment year. Stats. 1969, p. 896, in effect November 10, 1969, added "the provisions for publication in counties of more than 4 million and 1 million population," in the first paragraph.

623. **Single assessment for leased personal property.** The assessor may place a single assessment on the roll for all leased personal property in the county that is assessed with respect to the same taxpayer. Any property

assessed pursuant to this section shall, in the absence of evidence establishing otherwise, be deemed to be located at the taxpayer's primary place of business within the county.

History.—Added by Stats. 1995, Ch. 527, in effect January 1, 1996.

Article 7. Information to Other Taxing Agencies

646. **Inspection of records.** The records of the assessor are at all times, during office hours, open to the inspection of any person charged with the duty of assessing property in the county for any taxing agency.

647. **Copies of secured roll.** (a) If any city or lighting, water, or irrigation district, or any district described in Section 2131, on behalf of which the county does the assessing, makes written request, on or before the lien date, for a certified copy of the portion of the secured roll pertaining to property within its limits, the assessor shall comply with the request on or before July 1. Such roll is at all times, during office hours, open to the inspection of any person representing any taxing agency or revenue district, or any district described in Section 2131.

(b) In counties of the first class, if any city or lighting, water or irrigation district, on behalf of which the county does the assessing, makes written request, on or before the lien date, for a certified copy of the portion of the secured roll pertaining to property within its limits, the assessor shall comply with the request on or before the third Monday in August.

History.—Stats. 1966, p. 666 (First Extra Session), in effect October 6, 1966, added "or any district described in Section 2131, on behalf of which the county does the assessing", substituted "lien date" for "first Monday in March" and "July 1" for "third Monday in July", and added the last sentence. Stats. 1974, Ch. 180, p. 355, in effect April 24, 1974, applicable to assessments made on and after the 1974 lien date, added the subdivision letters, and added subdivision (b).

648. **Description from unsecured roll.** If any city or lighting, water, or irrigation district makes a written request for a description of all property within its limits which is on the unsecured roll, its assessed value, the location of property as reported on a property statement filed pursuant to Section 441, and the name and address, by street and number, of each owner, the assessor shall comply with the request on the first Monday in each month. For purposes of this section, any property assessed pursuant to Section 623 is deemed to be located at the taxpayer's primary place of business within the county.

History—Stats. 1996, Ch. 88, in effect January 1, 1997, substituted "makes a written request" for "makes written request" after "irrigation district", added "the location of property as reported on a property statement filed pursuant to Section 441," after "its assessed value", and substituted "of each owner" for "of the owners" after "street and number," in the first sentence, and added the second sentence commencing with "For purposes of".

649. **Cost.** The assessor may charge other taxing agencies the actual cost for each copy of the secured roll or description from the unsecured roll furnished them.

Article 8. Appraiser Qualifications *

670. **Appraiser's certificate.** (a) No person shall perform the duties or exercise the authority of an appraiser for property tax purposes as an employee of the state, any county or city and county, unless he or she is the holder of a valid appraiser's or advanced appraiser's certificate issued by the State Board of Equalization.

(b) The board shall provide for the examination of applicants for these certificates and may contract with the State Personnel Board to give the examinations. Examinations shall be prepared by the board with the advice and assistance of a committee of five assessors selected by the State Association of County Assessors for this purpose. No certificate shall be issued to any person who has not attained a passing grade in the examination and demonstrated to the board that he or she is competent to perform the work of an appraiser as that competency is defined in regulations duly adopted by the board. However, any applicant for a certificate who is denied the same shall have a right to a review of that denial in accordance with the State Administrative Procedure Act contained in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Passage of a civil service or merit system examination for appraiser given by the state, or any county or city and county shall suffice to meet the requirements of this section. The scope of the examination shall be approved by the State Board of Equalization.

(d) No employee of the state, or any county, or city and county shall perform the duties or exercise the authority of an auditor or an auditor-appraiser under Section 469 or Section 15624 of the Government Code, unless he or she holds a degree with a specialization in accounting from a recognized institution of higher education, or is a licensed accountant in the State of California, or has passed the state, or a county, or city and county, or city civil service or merit system examination regularly given for the position of accountant or auditor by the testing body, or holds the office of assessor.

(e) Except for persons holding the office of assessor, this section does not apply to elected officials.

(f) No charge shall be made to counties or to applicants for examinations and certifications under this section or for training conducted by the board under Section 671.

History.—Stats. 1967, p. 3111, in effect November 8, 1967, added subdivision (h). Stats. 1968, p. 1124, in effect November 13, 1968, added the references in subdivisions (a), (c), (d) and (e) to city employees. Stats. 1974, Ch. 1100, p. 2336, in effect January 1, 1975, added "or advanced appraiser's" after "appraiser's" in subdivision (a); substituted "State Association of County Assessors" for "assessors" in the first sentence of subdivision (b); deleted the former subdivision (d); relettered the former subdivision (e) as subdivision (d), and substituted "No" for "Except as permitted by subdivision (f), no" therein; deleted the former subdivision (f); relettered the former subdivision (g) as subdivision (e); and relettered the former subdivision (h) as subdivision (f). Stats. 1984, Ch. 678, in effect January 1, 1985, deleted "Section 1815.1 of this code, or under" after "Section 469" in subdivision (d). Stats. 1997, Ch. 940 (SB 1105), in effect January 1, 1998, deleted "or city, either general law or chartered," after "city and county" in the first sentence of

* Article 8 was added by Stats. 1966 p. 667 (First Extra Session), in effect October 6, 1966, operative July 1, 1967.

subdivision (a); substituted "these" for "such" after "applicants for" and substituted "the" for "such" after "to give" in the first sentence, substituted "the" for "such" after "grade in", substituted "that" for "such" after "appraiser as" and deleted "; provided, however, that any" and added a period after "by the board" in the third sentence, added "However, any" which created a new fourth sentence with the balance of the former third sentence, and added "a" before "review" and substituted "that" for "such" after "review of" in the newly created fourth sentence of subdivision (b); added a comma after "state" and deleted "or city" before "shall suffice" in the first sentence, and substituted "the" for "such" after "scope of" and added "State" before "Board" in the second sentence of subdivision (c); added "or" after "state,", added "or" after the first "county", deleted ", or city," after the second "county", and added ", or holds . . . assessor" after "testing body" in the first sentence of subdivision (d); added "Except for . . . assessor," before "this section" in the first sentence of subdivision (e); and added "or she" after "he" throughout the text.

671. **Appraiser training.** (a) In order to retain a valid appraiser's certificate every holder shall complete at least 24 hours of training conducted or approved by the State Board of Equalization in each one-year period.

Any excess in training time over the 24-hour minimum accumulated in any one year shall be carried over as credit for future training requirements with a limit of three years in which the carryover time may be credited.

Failure to receive such training shall constitute grounds for revocation of an appraiser's certificate; provided, however, that proceedings to revoke shall be conducted in accordance with the Administrative Procedure Act contained in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Training shall include, but not be limited to, new developments in the case and statutory law and administrative rules.

(b) An advanced appraiser's certificate shall be issued by the board after an applicant has held an appraiser's certificate for at least three years and:

(1) Has successfully completed a course of study; or

(2) Has passed an advanced level examination; or

(3) Holds a valid professional designation from a recognized professional organization.

The board, with the advice and assistance of five assessors selected by the State Association of County Assessors of California, shall prescribe the course of study, prepare the advanced level examination, and approve the professional designation.

In order to retain a valid advanced appraiser's certificate, every holder shall complete at least 12 hours of training in each one-year period.

Any excess in training time for the advanced appraiser's certificate over the 12-hour minimum accumulated in any one year shall be carried over as a credit for future training requirements with a limit of two years in which the carryover time may be credited.

Failure to receive such training shall constitute grounds for revocation of an advanced appraiser's certificate; provided, however, that proceedings to revoke shall be conducted in accordance with the Administrative Procedure Act contained in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Training to retain the advanced appraiser's certificate shall include, but not be limited to, new developments in the case and statutory law and administrative rules.

History—Stats. 1968, p. 317, in effect May 10, 1968, added "commencing July 1, 1968" to the first paragraph and added the second and fourth paragraphs. Stats. 1974, Ch. 1100, p. 2337, in effect January 1, 1975, added the subdivision letters; substituted "complete" for "be exposed to", and deleted ", commencing, July 1, 1968" after "period" in the first sentence of the first paragraph of subdivision (a); deleted the balance of the first sentence of the second paragraph of subdivision (a) after "credited" relating to training time accumulated prior to June 30, 1968; and added subdivision (b) (1), (2), (3), and the second, third, fourth, fifth, and sixth paragraphs of subdivision (b).

672. **Disclosure of financial interest.** At the time of certification, each applicant shall disclose, on forms provided by the Board of Equalization, his or her financial interest in any corporation. Thereafter, the form shall be completed annually.

If the applicant is also required to annually file with the Fair Political Practices Commission pursuant to Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 of the Government Code, then a duplicate of that filing shall be deemed to meet the requirements of this section.

History.—Stats. 1982, Ch. 1465, in effect January 1, 1983, added "or her" after "his" in the first sentence of the first paragraph and added the second paragraph.

673. **Temporary certificate.** The State Board of Equalization may issue a temporary certificate to a person who is newly employed by the state, any county, city and county, or appraisal commission in order to afford the person the opportunity to apply for and take an examination the successful passage of which would qualify the person for an appraiser's certificate. A temporary certificate shall not be issued to exceed one year's duration and shall be issued only to a person who has demonstrated eligibility to take a civil service examination pursuant to subdivision (c) of Section 670, or who is found by the board to possess qualifications by reason of education and experience so that he or she may be reasonably expected to be competent to perform the work of an appraiser, or who has been duly elected or appointed to the office of assessor. A temporary certificate shall not be renewed.

History.—Stats. 1974, Ch. 1100, p. 2338, in effect January 1, 1975, substituted "an appraiser's" for "a" in the first sentence. Stats. 1997, Ch. 940 (SB 1105), in effect January 1, 1998, added "State" before "Board" and added a comma after the second "county" in the first sentence, added a comma after "Section 670", added "or she" after "he", and added the balance of the sentence after "an appraiser" in the second sentence.

Article 9. Consultant Contracts

674. **Requirements.** (a) All contracts for the performance of appraisal work for assessors by any person who is not an employee of the state, any county, or any city shall be entered into only after at least two competitive bids and shall be entered into either on a fixed fee basis or on the basis of an hourly rate with a maximum dollar amount.

(b) In addition to any provision in the Real Estate Appraisers' Licensing and Certification Law (Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code), a contractor shall maintain the confidentiality of assessee information and records as provided in Sections 408, 451, and 481 that is obtained in performance of the contract.

(1) A request for information and records from an assessee shall be made by the assessor. The assessor may authorize a contractor to request additional information or records, if needed. However, a contractor shall not request that information or records without the written authorization of the assessor.

(2) A contractor shall not provide appraisal data in his or her possession to the assessor or a contractor of another county who is not a party to the contract. An assessor may provide that data to the assessor of another county as provided in subdivision (b) of Section 408.

(c) A contractor may not retain information contained in, or derived from, an assessee's confidential information and records after the conclusion, termination, or nonrenewal of the contract. Within 90 days of the conclusion, termination, or nonrenewal of the contract, the contractor shall:

(1) Purge and return to the assessor any assessee records, whether originals, copies, or electronically stored, provided by the assessor or otherwise obtained from the assessee.

(2) Provide a written declaration to the assessor that the contractor has complied with this subdivision.

(d) All contracts entered into pursuant to subdivision (a) shall include a provision incorporating the requirements of subdivisions (b) and (c). This provision of the contract shall use language that is prescribed by the State Board of Equalization.

(e) For purposes of this section, a ''contractor'' means any person who is not an employee of the state, any county, or any city who performs appraisal work pursuant to a contract with an assessor.

History.—Added by Stats. 1988, Ch. 1534, in effect January 1, 1989. Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, designated the former first paragraph as subdivision (a) and substituted "person" for "individual" after "by any" in the first sentence therein; and added subdivisions (b), (c), (d), and (e).

Note.—Section 2 of Stats. 1988, Ch. 1534, provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution. Sec. 3 thereof provided that this act shall apply to contracts entered into on and after January 1, 1989. Sec. 4 thereof provided that it is the intent of the Legislature that the provisions of this act shall have no effect upon the constitutional, statutory, and regulatory mandates for determining ''full cash value'' and it shall remain the primary responsibility of assessors to ensure that appraisals and enrolled values are neither overstated nor understated.

Chapter 4. Assessment by State Board of Equalization Generally

Article 1. General Provisions *

* Article 1 was added by Stats. 1976, Ch. 877, p. 1990, in effect January 1, 1977.

721. **Valuation and assessment.** The board shall annually value and assess all of the taxable property within the state that is to be assessed by it pursuant to Section 19 of Article XIII of the Constitution and any legislative authorization thereunder.

Construction.—Under this section, the Board has the constitutional authority to assess railroads' properties, and the trial court is precluded from substituting its judgment for the Board's on questions of fact or discretionary appraisal decisions. A remand to the Board is generally required when the determination of refunds is dependent upon an exercise of valuation functions and does not involve mere mathematical computations. However, a limited remand rather than a broad, de novo remand to the Board is appropriate if the Board has failed to address or consider a specific question or questions. *Union Pacific Railroad Co.* v. *State Board of Equalization,* 231 Cal.App.3d 983.

Public Utility Property.—Although the Board followed a published policy of valuing public utility property at not more than its reproduction cost new less depreciation (RCNLD), it was free to alter its method of assessing such property subject to the requirements of fairness and uniformity. An assessment based primarily upon the capitalization of income method and exceeding RCNLD is not necessarily in excess of the value of a taxpayer's property and does not necessarily constitute a tax on a taxpayer's franchise in violation of Article XIII, Section 19 of the Constitution. *ITT World Communications, Inc.* v. *Santa Clara County,* 101 Cal.App.3d 246. The Board was not entitled to use historical cost when valuing a railroad's property. The railroad, although regulated by the Interstate Commerce Commission, did not use historical cost as a rate base; and the conditions precedent to the Board's use of historical cost had not been met, and it was a violation of the Board's own property tax rule 3(d) to do so. *Southern Pacific Transportation Co.* v. *State Board of Equalization,* 191 Cal.App.3d 938.

Pipeline property.—While Article XIII, Section 19 of the Constitution allows for the unit taxation of all public utility property, only those items deemed to constitute a private, intercounty pipeline may be assessed by the Board, including enumerated mechanical parts, fittings, and tanks necessary to the pipeline's operation. Real property interests, land and rights-of-way, are excluded from the definition of a pipeline. Similarly, specific facilities, including a products plant, a wharf and a marine terminal, engaged in multiple uses were not essential to the operations of intercounty pipelines that terminated there and thus, were not parts of the pipelines which the Board could assess. *Southern Pacific Pipe Lines, Inc.* v. *State Board of Equalization,* 14 Cal.App.4th 42.

Composite life model.—The trial court erred in concluding that the Board's composite life model, a variant of the limited life technique used to assess railroads' operating assets, violated property tax rule 8(c), in that it failed to include in gross outgo the capital expenditures (costs of replacements in kind) necessary to maintain the estimated income. Property tax rule 8(b) specifically allows the use of a limited life model, and when a limited life model is used, rule 8(c) must be read as requiring only the deduction of capital expenditures needed to maintain the estimated income for the limited lifetime. The trial court did not err, however, in concluding that the composite life/no replacement cost model depended on assumptions that were so unrealistic when applied to railroad properties as to insure that the value estimate would be unreliable. The model rested on a central unsupported and untestable assumption: that future capital replacements would, in general, earn at least their capital cost. It was assumed that investments and replacements would be discretionary with future management, and would not be made if they would not earn enough to justify the cost. However, because of two characteristics of the railroad industry—mandated reinvestment and economic integration of assets—it was incorrect to assume, as the Board did, that future investment in replacements would always "pay their own way." *Union Pacific Railroad Co.* v. *State Board of Equalization,* 231 Cal.App.3d 983.

Valuation Method.—Since no single method of the three generally used by assessors in determining the "full value" of property (market data on sales of similar property, replacement cost, and income from the property) alone can be used to estimate the value of all property, an assessor, subject to requirements of fairness and uniformity, may exercise his discretion in using one or more of them. *ITT World Communications, Inc.* v. *Santa Clara County,* 101 Cal.App.3d 246. *Southern Pacific Transportation Co.* v. *State Board of Equalization,* 191 Cal.App.3d 938; *Los Angeles SMSA Ltd. Partnership* v. *State Board of Equalization,* 11 Cal.App.4th 768. A valuation methodology used to assess tangible property that did not satisfactorily account for the value of the taxpayer's intangible assets was invalid. Intangible assets are not subject to property taxation, although their value may be included in the valuation of otherwise taxable tangible property. The Board erred in assuming that unit valuation, especially when calculated by the capitalized earnings ability method, necessarily taxed only the intangible values as they enhanced the tangible property. Such obscured the Board's duty to exclude intangible assets from assessment. *GTE Sprint Communications Corp.* v. *Alameda County*, 26 Cal.App.4th 992.

Notice.—An assessment notice must disclose to a taxpayer the methods of valuation and the method or methods actually used to determine the amount of assessment, sufficient to permit the taxpayer to challenge the assessment in an administrative proceeding. *Southern Pacific Transportation Co.* v. *State Board of Equalization,* 191 Cal.App.3d 938.

Income from Enterprise Activity.—Where a capitalized earnings approach is used in valuing property, income derived in large part from enterprise activity, which is subject to income taxation, may not be ascribed to the property being appraised. *ITT World Communications, Inc.* v. *Santa Clara County,* 101 Cal.App.3d 246.

721.5. **Electric generation facilities.** (a) (1) Notwithstanding Section 721 or any other provision of law to the contrary, commencing with the lien date for the 2003–04 fiscal year, the board shall annually assess every electric generation facility with a generating capacity of 50 megawatts or

more that is owned or operated by an electrical corporation, as defined in subdivisions (a) and (b) of Section 218 of the Public Utilities Code.

(2) For purposes of paragraph (1), ''electric generation facility'' does not include a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), (18) and 824a-3), and the regulations adopted for those sections under that act by the Federal Energy Regulatory Commission (18 C.F.R. 292.101–292.602).

(b) This section shall be construed to supersede any regulation, in existence as of the effective date of this section, that is contrary to this section.

History.—Added by Stats. 2002, Ch. 57 (AB 81), in effect January 1, 2003.

Note.—Section 3 of Stats. 2002, Ch. 57 (AB 81) provided that this act shall not be construed to affect the manner in which property to which this act applies is assessed by the State Board of Equalization. Section 4 thereof provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

722. **Ratio of assessed to full value.** State-assessed property shall be assessed at its fair market value or full value as of 12:01 a.m. on the first day of January. The board shall annually prepare an assessment roll of the assessments made by it for transmittal to county auditors and city auditors as hereinafter provided in this chapter.

History.—Stats. 1978, Ch. 1207, in effect January 1, 1979, operative January 1, 1981, deleted "25 percent of" before "its fair market value" in the first sentence. Stats. 1986, Ch. 1457, effective January 1, 1987, substituted "January" for "March" after "day of" in the first sentence.

722.5. **Local and State assessment dates.** (a) Real property assessed by the board pursuant to Section 19 of Article XIII of the California Constitution on January 1, which thereafter becomes subject to local assessment, shall not be assessed locally during the remainder of the assessment year, except as provided in Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1.

(b) Personal property that becomes subject to board assessment after January 1, and real property that becomes subject to board assessment on or after January 1, and on or before the following January 1, shall not be state assessed until the assessment year commencing on the latter January 1.

History.—Added by Stats. 1986, Ch. 1457, in effect January 1, 1987. Stats. 1987, Ch. 921, in effect September 22, 1987, added the second sentence to subdivision (a). Stats. 1996, Ch. 499, in effect January 1, 1996, operative January 1, 1997, substituted "assessment year" for "local assessment year commencing within 60 days after January 1" after "remainder of the" in the first sentence, and deleted "For the purposes of Section 75.11, real property which becomes subject to local assessment after January 1 and before the following March 1 shall be deemed to be subject to local assessment as of March 1.", the former second sentence of subdivision (a); deleted former subdivision (b) which read: "Real property which becomes subject to board assessment pursuant to Section 19 of Article XIII of the California Constitution as the result of a lease, a purchase, a change in ownership, or the creation of a possessory interest after January 1 and before the following March 1 shall be deemed to be subject to board assessment as of January 1."; and relettered former subdivision (c) as (b), substituted "that" for "which" after "real property", and substituted "January" for "March" after "on or after" in subdivision (b).

Note.—Section 8 of Stats. 1987, Ch. 921, provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

723. **Use of principle of unit valuation.** The board may use the principle of unit valuation in valuing properties of an assessee that are operated as a unit in a primary function of the assessee. When so valued, those properties are known as ''unitary property.'' Property of an assessee not valued through the use of the principle of unit valuation are known as ''nonunitary property.'' When valuing nonunitary property, the board shall consider current market value information of comparable properties provided by the assessor just prior to the reappraisal by the board of that property.

History.—Stats. 1983, Ch. 694, in effect January 1, 1984, substituted "those" for "such" after "valued," in the second sentence, and added the fourth sentence.

Construction.—Unit taxation of public utilities and railroads is properly characterized as the taxation of property as a going concern, not as the taxation of real property or personal property, or even a combination of both. Under the unit taxation method, the Board considers the earnings of the property as a whole, and does not consider, less still assess, the value of any single real or personal asset. *Union Pacific Railroad Co.* v. *State Board of Equalization; GTE Sprint Communications Corp.* v. *Alameda County,* 26 Cal.App.4th 992. 49 Cal.3d 138. The Board properly assessed a cellular company as a unit at its highest and best use, undifferentiated into separate types of assets. It has long been recognized that a public utility property cannot be regarded as merely land, buildings, and other assets. Rather, its value depends on the interrelation and operation of the entire utility as a unit. Thus, the Board was not required to attempt to isolate and separately value the company's Federal Communications Commission station authorization or to deduct any amount from the company's unitary value. *Los Angeles SMSA Ltd. Partnership* v. *State Board of Equalization,* 11 Cal.App.4th 768.

723.1. **Operating nonunitary properties.** Operating nonunitary properties are those that the assessee and its regulatory agency consider to be operating as a unit, but the board considers not part of the unit in the primary function of the assessee. This section does not apply to state-assessed property of regulated railway companies. In the case of regulated railway companies, there shall be only two classifications of property for purposes of this code, unitary and nonunitary.

History.—Added by Stats. 1986, Ch. 1457, effective January 1, 1987. Stats. 1987, Ch. 921, in effect September 22, 1987, added the second sentence.

724. **Timely performance.** Whenever any act is required or allowed to be done on or before a date specified in this chapter and that day is a Saturday, Sunday or holiday, the act may be performed timely during the next following business day.

725. **Validity of assessment or taxes.** The failure to receive any notice required to be given by the board or the failure of the board to complete any action by a date specified under this chapter, shall not affect the validity of an assessment or the validity of any taxes levied pursuant thereto. When any notice given by the board pursuant to this chapter provides for a time period of less than 10 days, the notice shall also be communicated by telephone on the day the notice is dated.

Article 2. Assessments **

731. **Notification of assessment; unitary property.** Each year between the first day of January and the first day of June, upon valuing the unitary property of an assessee, the board shall mail to the assessee, at its

** Article 2 was added by Stats. 1976, Ch. 877, p. 1991, in effect January 1, 1977.

address as shown in the records of the board, a notice stating the amount of the assessed value of the assessee's unitary property. The notice shall advise the assessee that a petition for reassessment of the unitary property may be filed, not later than July 20 of the year of the notice, at the headquarters of the board in Sacramento.

History.—Stats. 1980, Ch. 1208, in effect January 1, 1981, deleted "full value and" before "assessed value" in the first paragraph. Stats. 1981, Ch. 1132, in effect January 1, 1982, added "declaration of intent to petition for reassessment, and the date by which and place where a" before "petition" in the second sentence; and added "for filing of the declaration of intent" after the first "date", substituted "20" for "10" before the first "days", and added the balance of the sentence after "notice" in the third sentence. Stats. 1986, Ch. 1457, effective January 1, 1987, substituted "January" for "March" after "day of" in the first sentence. Stats. 2000, Chap. 647 (SB 2170), in effect January 1, 2001, substituted "that" for "of the date by which and the place where a declaration of intent to petition for reassessment, and the date by which and place where" after "the assessee" and added ", not later . . . in Sacramento" after "filed" in the second sentence, and deleted the former third sentence, which provided "The date for filing of the declaration of intent shall not be less than 20 days from the date of the mailing of the notice of value and the date for filing the petition shall not be less than 30 days from the date set for filing the declaration of intent to petition.".

732. **Notification of assessment; nonunitary property.** Each year between the first day of January and the last day of July, upon valuing the nonunitary property of an assessee, the board shall mail to the assessee at its address shown in the records of the board a notice stating the amount of the assessed value of the assessee's nonunitary property. The notice shall advise the assessee that a petition for reassessment of the nonunitary property may be filed, not later than September 20 of the year of the notice, at the headquarters of the board in Sacramento.

History.—Stats. 1981, Ch. 1132, in effect January 1, 1982, added "declaration of intent to petition for reassessment, and the date by which and place where a" before "petition" in the second sentence; and added "for filing of the declaration of intent" after the first "date," substituted "20" for "10" before the first "days," and added the balance of the sentence after "notice" in the third sentence. Stats. 1986, Ch. 1457, effective January 1, 1987, substituted "January" for "March" after "day of" and "June" for "July" after "day of" in the first sentence. Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, substituted "July" for "June" after "day of" in the first sentence, substituted "that" for "of the date by which and the place where a declaration of intent to petition for reassessment, and the date by which and place where" after "the assessee", added ", not later than . . . in Sacramento" after "filed" in the second sentence, and deleted the former third sentence which provided, "The date for filing of the declaration of intent shall not be less than 20 days from the date of the mailing of the notice of value and the date for filing the petition shall not be less than 30 days from the date set for filing of the declaration of intent to petition.".

733. **Finality of assessment.** (a) If a timely petition for reassessment is not filed with the board, an assessment of unitary or nonunitary property of the assessee shall become final at the expiration of the period specified for filing a petition in the notice given in accordance with Section 731 or Section 732.

(b) The board may extend the period for filing a petition for reassessment once for a period not to exceed 15 days, provided a written request for the extension is filed with the board prior to the expiration of the period for which the extension may be granted.

History.—Stats. 1981, Ch. 1132, in effect January 1, 1982, added the first paragraph; added "after a.....filed, a" after "If", and added "for filing a petition" after "specified" in the second paragraph; and added the third paragraph. Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, deleted the former first paragraph which provided, "If the assessee fails to file a declaration of intent to file a petition for reassessment within the period specified in the notice mailed by the board in accordance with Section 731 or Section 732, an assessment of unitary or nonunitary property of the assessee shall become final at the expiration of the period specified. If the assessee files a petition for reassessment within the period specified for filing a declaration of intent to petition, no declaration of intent need be filed."; lettered the former second paragraph as subdivision (a) and deleted ", after a declaration of intent to file a petition has been timely filed," after "If" and substituted "the" for "an" after "property of" therein; and lettered the former third paragraph as subdivision (b).

Article 3. Reassessments and Allocation Corrections *

741. **Petition for reassessment.** A petition for reassessment of unitary or nonunitary property shall be in writing and shall state the specific grounds upon which it is claimed a correction or adjustment of the assessment is founded. The petition shall be delivered to the board at its headquarters office in Sacramento.

Burden of Proof.—Before the Board, the assessing officers are presumed to have properly performed their duties, and the taxpayer has the burden of showing that an assessment is not fair and equitable. The assessor is not required to go forward with any evidence, but may stand on the presumption of correctness of the assessment. *ITT World Communications, Inc.* v. *Santa Clara County,* 101 Cal.App.3d 246.

742. **Hearing on petition for reassessment.** Upon receipt of a timely petition for reassessment, the board shall set a time and place within the state for hearing on the petition. Notice thereof shall be mailed to the assessee at its address as shown in the records of the board, not less than 10 working days in advance of the date of the hearing.

History.—Stats. 1988, Ch. 821, in effect January 1, 1989, substituted "10 working" for "five" in the second sentence.

Scope of review.—The trial court did not err in admitting evidence regarding application of the Board's valuation methods used for railroads' properties beyond that contained in the administrative record and in deciding the primary question of validity of the methods de novo, where the railroads' central claim was that the valuation methods employed by the board were fundamentally inappropriate for the assessment of railroad operating assets. Where the claim is that, due to the basic undisputed characteristics shared by an entire class of properties, the challenged method will produce systematic errors if applied to properties in that class, the issue is legal, not factual. *Union Pacific Railroad Co.* v. *State Board of Equalization,* 231 Cal.App.3d 983.

Preponderance of evidence.—Board, at railroad reassessment hearings, did not fail to adhere to a preponderance of the evidence standard. Chief Counsel's advice that assessees' burden was "weight of the evidence, for example, more than 50 percent proof," described, in lay terms, the concept of a preponderance of evidence, and there was no evidence that the Board was systematically imposing a higher burden on railroads. *Union Pacific Railroad Co.* v. *State Board of Equalization,* 231 Cal.App.3d 983.

743. **Continuance of hearing; record; transcript.** The hearing may be continued by the board for good cause. The hearing shall be open to the public, except that upon conclusion of the taking of evidence the board may deliberate in private with the aid of its staff in reaching a conclusion. Upon written request, the board shall make a full record of the hearing and furnish the petitioner with a transcript thereof at the petitioner's expense.

History.—Stats. 1981, Ch. 261, in effect January 1, 1982, deleted "made in advance of the hearing" after "request" in the third sentence.

744. **Notification of decision; findings and conclusions.** (a) The board shall notify the petitioner of its decision on a petition for reassessment by mail and shall make written findings and conclusions if requested at or prior to the commencement of the hearing. The board shall send a periodic report of its decisions and any written findings and conclusions thereon to

* Article 3 was added by Stats. 1976, Ch. 877, p. 1992, in effect January 1, 1977.

each county in which affected state-assessed property is situated. The findings shall fairly disclose the board's determination of material factual issues and shall contain a statement of the method or methods of valuation used by the board in valuing the property. Notwithstanding the requirement for a statement of method or methods, the board's approval of a settlement of a lawsuit contesting the value of state-assessed property shall be sufficient disclosure when value is determined in accordance with a board-approved settlement. Decisions of the board on petitions for reassessment of state-assessed property shall be completed on or before December 31.

(b) When the value of an assessee's state-assessed property is determined, after a hearing on a petition for reassessment, to be different from the value originally adopted by the board, the board shall determine the year in which the corrected value is to be entered on the roll. The correct value may be entered on the roll for the fiscal year in which the determination is made, or the difference between the original and the corrected value may be entered as an increase or decrease in the assessment for the succeeding fiscal year. If the corrected value is entered on the roll for the fiscal year in which it is determined, and the board roll has been transmitted to the county auditors, the board shall make the corresponding changes in allocations and transmit the roll corrections to the county auditor.

(c) If the amount of the correction is to be entered on the roll for the succeeding fiscal year, an amount is to be added in lieu of interest. If the correction results in a reduction in assessed value, there shall be added to the reduction, in lieu of interest, 9 percent of the difference between the original assessed value and the reduced assessed value. If the correction results in an increase in assessed value, there shall be added to the increase, in lieu of interest, 9 percent of the difference between the original assessed value and the increased assessed value.

History.—Stats. 1981, Ch. 1132, in effect January 1, 1982, added the subdivision letters; added "both" before and "and nonunitary" after "unitary", and substituted "December 31" for "June 30, and decisions on petitions for reassessment of nonunitary property shall be completed on or before August 19" in the third sentence of subdivision (a); and added subdivisions (b) and (c). Stats. 1987, Ch. 1262, in effect January 1, 1988, added the second sentence in subdivision (a), and substituted "state-assessed" for "both unitary and nonunitary" after "reassessment of" in the fourth sentence thereof; and substituted "state-assessed" for "unitary or nonunitary" after "assessee's" in the first sentence of subdivision (b). Stats. 1992, Ch. 603, in effect September 9, 1992, added the fourth sentence "Notwithstanding the requirement . . . board-approved settlement." to subdivision (a). Stats. 1995, Ch. 497, in effect January 1, 1996, substituted "periodic report of its decisions" for "copy of its decision" after "shall send a" and deleted "the" after "county in which" in the second sentence of subdivision (a).

Findings.—Findings merely affirming an assessment and informing the taxpayer that the Board had before it the same staff-calculated value indicators as those provided in the notice of assessment, which also failed to specify the method or methods of valuation used by the Board, and not revealing whether the Board relied on some or all of the value indicators did not comply with the explicit statutory right to findings in subdivision (a) of this section. *Southern Pacific Transportation Co.* v. *State Board of Equalization,* 191 Cal.App.3d 938.

Judicial Review.—Against a claim that a valid valuation method has been applied erroneously, the Board's decision is equivalent to a trial court determination, and the court may review only the record presented to the Board and may overturn the Board's decision only when no substantial evidence supports it. Where a taxpayer challenges the validity of a valuation method itself, the court must determine as a question of law whether the challenged method is arbitrary, in excess of discretion, or in violation of standards prescribed by law. *ITT World Communications, Inc.* v. *Santa Clara County,* 101 Cal.App.3d 246. *Southern Pacific Transportation Co.* v. *State Board of Equalization,* 191 Cal.App.3d 938; *GTE Sprint Communications Corp.* v. *Alameda County,* 26 Cal.App.4th 992.

745. **Assessment; placement on roll.** The assessment of the unitary and operating nonunitary property of an assessee shall be allocated to assessments on the roll prepared by the board among the counties in which

parts of the unitary and operating nonunitary property are situated. The assessment of the nonunitary property of an assessee shall be placed on the assessment roll prepared by the board.

History.—Stats. 1981, Ch. 1132, in effect January 1, 1982, deleted "When" before "the assessment" at the beginning of, and deleted "has become final, it" after "assessee" in both the first and second sentences. Stats. 1986, Ch. 1457, effective January 1, 1987, added "and operating nonunitary" after "unitary" in two places and substituted "counties" for "taxing jurisdictions" after "among the" in the first sentence.

746. **Notification of proposed allocated assessed values of unitary property.** Each year, upon or prior to the completion of the assessment roll prepared by the board, but not later than June 15, the board shall mail notice to each assessee at its address as shown on the records of the board, of the allocated assessed values of the assessee's unitary property that have been or are proposed to be placed on the assessment roll to be transmitted to county auditors. The notice shall advise the assessee that a petition for a correction of an allocated assessment may be filed, not later than July 20 of the year of the notice, at the headquarters of the board in Sacramento.

History.—Stats. 1995, Ch. 497, in effect January 1, 1996, substituted "county auditors" for "the several county auditors and city auditors" after "transmitted to" in the first sentence and substituted "that" for "such" after "notice, and in" in the fourth sentence. Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, added "Each year," before "upon" and added "but not later than June 15," after "the board," in the first sentence, substituted "advise the assessee that a" for "include a statement of the date by which and the place where the assessee may" after "notice shall" and added "may be filed, not later than July 20 of the year of the notice, at the headquarters of the board in Sacramento" after "assessment" in the second sentence, and deleted the former third and fourth sentences which provided, "The date shall not be less than five days from the date of mailing of the notice. The time and place for hearing, in the event a petition is to be filed, may be stated in the notice, and in that case the time for the hearing shall not be less than 10 days from the date of the mailing of the notice of the allocated assessed values.".

747. **Petition for correction of allocated assessment.** A petition for correction of an allocated assessment shall be in writing and state the specific grounds upon which it is claimed a correction or adjustment in the allocation is founded. The value of the total unitary property of an assessee may not be brought into issue in a petition for correction of an allocated assessment.

748. **Hearing on petition for correction of allocated assessment.** Upon receipt of a timely petition for correction of an allocated assessment, the board shall set a time and place within the state for hearing on the petition. Notice thereof shall be mailed to the assessee at its address as shown on the records of the board not less than 10 working days in advance of the date of the hearing.

History.—Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, substituted "on the petition." for ", if it has not done so in the notice given under Section 746, and shall mail" after "hearing" in the first sentence, created the second sentence with the balance of the former first sentence after "Notice", added "thereof shall be mailed" before "to the assessee", deleted "of the time and place of the hearing" after "assessee," and added "not less than 10 working days in advance of the date the hearing." after "the board" therein, and deleted the former second sentence which provided, "The time for the hearing shall not be less than five days from the date of mailing of the notice.".

749. **Record; transcript.** Section 743 shall be applicable to hearings on petitions for correction of an allocated assessment and the board shall notify the petitioner of its decision by mail. The decision shall include written findings and conclusions of the board if requested at or prior to the commencement of the hearing. Decisions of the board on petitions for correction of an allocated assessment shall be completed on or before December 31.

History.—Added by Stats. 1976, Ch. 877, in effect January 1, 1977. Stats. 1986, Ch. 1457, in effect January 1, 1987, deleted "of this article" after "Section 743", and substituted "July 31" for "August 19" in the first sentence. Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, deleted "prior to July 31" after "by mail" in the first sentence and added the third sentence. Stats. 1986, Ch. 1457, in effect January 1, 1987, deleted "of this article" after "Section 743", and substituted "July 31" for "August 19" in the first sentence. Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, deleted "prior to July 31" after "by mail" in the first sentence and added the third sentence. Stats. 2001, Ch. 744 (SB 1182), in effect January 1, 2002, substituted "allocated" for "unallocated" after "correction of an" in the third sentence of the first paragraph.

Article 4. Assessment Estimates and Assessment Roll *

755. **Transmission of estimates of total assessed values to county auditors.** (a) On or before July 15, the board shall transmit to each county auditor an estimate of the total unitary value and operating nonunitary value of state-assessed property in the county and of nonunitary state-assessed property in each revenue district in the county. An estimate need not be made for a revenue district that did not levy a tax or assessment during the preceding year unless the board receives on or before January 1 preceding the fiscal year for which the levy is to be made a notice in writing of the proposed levy. The estimate shall be regarded as establishing the total assessed value of state-assessed property in the county and each revenue district in the county for the purpose of determining tax rates, subject only to those changes as may be transmitted on or prior to July 31. All information furnished pursuant to this section is at all times during office hours open to inspection by any interested person or entity.

(b) Notwithstanding subdivision (a), in making the estimate referred to in subdivision (a), the unitary value and nonunitary value of the property of regulated railway companies and property subject to subdivisions (i), (j), and (k) of Section 100 shall be allocated by revenue district.

History.—Added by Stats. 1976, Ch. 877, p. 1993, in effect January 1, 1977. Stats. 1986, Ch. 1457, in effect January 1, 1987, substituted "July 15," for "August 7", after "before", substituted "unitary" for "assessed", after "total", and added "of nonunitary state-assessed property" after "and" in the first sentence; and substituted "July 31" for "August 19" after "prior to" in the third sentence. Stats, 1987, Ch. 921, in effect September 22, 1987, added "(a)" before the first paragraph, and added "and operating nonunitary value" after "unitary value" in the first sentence thereof; and added subdivision (b). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "those" for "such" after "subject only to" in the third sentence, and substituted "by" for "of" after "open to inspection" in the fourth sentence of subdivision (a); and substituted "subdivisions (i), (j), and (k) of Section 100" for "subdivision (i) of Section 98.9" after "property subject to" in the first sentence of subdivision (b).

Note.—Section 8 of Stats. 1987, Ch. 921, provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

756. **Transmission of rolls to county auditors.** (a) On or before July 31, the board shall transmit to each county auditor a roll showing the unitary and operating nonunitary assessments made by the board in the county and the nonoperating nonunitary assessments made by the board in each city and

* Article 4 heading was added by Stats. 1976, Ch. 877, p. 1993, in effect January 1, 1977.

revenue district in the county; provided, however, that the roll need not show the assessments made by the board in a revenue district which did not levy a tax or assessment during the preceding year. The roll is at all times, during office hours, open to the inspection of any person representing any taxing agency or revenue district, or any district described in Section 2131. If the roll does not show the assessments in a revenue district as herein provided and a notice of a proposed levy is furnished the board in writing, on or before January 1 preceding the fiscal year for which the levy is to be made, the board shall furnish an estimate of the total assessed value of nonoperating nonunitary state-assessed property in the district and shall transmit thereafter to the county auditor a statement of roll change showing the nonoperating nonunitary assessments made by the board in the district.

(b) Notwithstanding subdivision (a), in making the roll referred to in subdivision (a), the unitary value and nonunitary value of the property of regulated railway companies and property subject to subdivisions (i), (j), and (k) of Section 100 shall be enrolled by revenue district.

History.—Original section, consisting of first clause only, provided for transmission of roll to county auditors. Stats. 1945, p. 977, in effect September 15, 1945, added remainder of section. Stats. 1966, p. 590 (First Extra Session), in effect October 6, 1966, added the second sentence relative to inspection of the roll. Stats. 1974, Ch. 312, p. 625, in effect January 1, 1975, substituted "On or before August 19" for "immediately after the third Monday in August" in the first sentence, and added "on or before January 1 preceding the fiscal year for which the levy is to be made," after "in writing," in the third sentence. Stats. 1986, Ch. 1457, effective January 1, 1987, substituted "July 31" for "August 19", after "before", added "unitary" after "showing the", and added "the nonunitary assessments made by the board" after "the county and" in the first sentence; added "nonunitary" after "total assessed value of" and after "change showing the" in the third sentence; and deleted the former fourth sentence. Stats. 1987, Ch. 921, in effect September 22, 1987, added "(a)" before the first paragraph; added "and operating nonunitary" after "the unitary", and added "nonoperating" after "county and the" in the first sentence and added "nonoperating" after "total assessed value of" and after "change showing the" in the third sentence of subdivision (a); and added subdivision (b). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "The" for "Such" before "roll is at" in the second sentence of subdivision (a) and substituted "subdivisions (i), (j), and (k) of Section 100" for "subdivision (i) of Section 98.9" after "property subject to" in the first sentence of subdivision (b).

Note.—Section 8 of Stats. 1987, Ch. 921, provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

757. **Transmission to city auditors.** [Repealed by Stats. 1986, Ch. 1457, effective January 1, 1987.]

758. **Assessment of escaped property or roll correction.** If the board roll has been transmitted to the local auditors, the board may make an assessment of escaped property or a roll correction. At least 30 days prior to transmitting a statement of assessment of escaped property or making a roll correction, the board shall notify the assessee whose property's full value has increased as a result of an escape assessment or roll correction of the assessed value of that property as it shall appear on the corrected roll. The notice shall be mailed to the assessee at its address shown in the records of the board. The notice shall advise the assessee of the date by which and the place where a petition for reassessment may be filed. The date for filing the petition shall not be less than 50 days from the date of the mailing of the notice of value. The provisions of Sections 741 to 744, inclusive, shall be applicable to petitions and hearings pursuant to this section except for the dates prescribed for decisions of the board.

History.—Added by Stats. 1976, Ch. 877, p. 1994, in effect January 1, 1977. Stats. 1982, Ch. 1465, in effect January 1, 1983, substituted the fourth and fifth sentences for "The assessee shall be heard by the board on a petition for reassessment prior to transmission to the local auditors of the board's statement of assessment of escaped property or roll correction if the assessee files with the board a written petition and request for hearing within 10 days of the date of mailing of the notice." Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, deleted "declaration of intent to petition for reassessment, and the date by which and the place where a" after "place where a" in the fourth sentence, and substituted "the petition shall not be less than 50 from the date of the mailing of the notice of value." for "of the declaration of intent shall not be less than 20 days from the date of the mailing of the notice of value and the date for filing the petition shall not be less than 30 days from the date set for filing the declaration of intent to petition." after "filing" in the fifth sentence.

759. **Finality of assessment.** (a) If a timely petition for reassessment is not filed in accordance with the notice provided by the board pursuant to Section 758, an escape assessment or roll correction shall become final at the expiration of the period for filing a petition for reassessment specified by that notice.

(b) The board may extend the period for filing a petition for reassessment once for a period not to exceed 15 days, provided a written request for the extension is filed with the board prior to the expiration of the period for which the extension may be granted.

History.—Added by Stats. 1991, Ch. 646, in effect January 1, 1992. Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, deleted former subdivision (a), which provided "If the assessee fails to timely file a declaration of intent to petition for reassessment in accordance with the notice provided by the board pursuant to Section 758, an escape assessment or roll correction shall become final at the expiration of the period for the filing of a declaration of intent specified by that notice. If the assessee files a petition for reassessment within the period specified for filing a declaration of intent, no declaration of intent shall be required."; relettered former subdivision (b) as subdivision (a), and substituted "If a timely" for "If, following the timely filing of a declaration of intent to petition for reassessment, a" before "petition for" and deleted "timely" after "is not" in the first sentence therein; and relettered former subdivision (c) as (b), and substituted "period for which the extension may be granted" for "noticed period for filing a petition for reassessment" after "of the" in the first sentence therein.

760. **Collection of delinquent taxes.** (a) If any amount assessed by the board becomes delinquent on the secured roll, the tax collector may utilize those procedures for the collection of taxes on the unsecured roll to collect the amount assessed by the board.

(b) Not less than 60 days prior to initiating procedures applicable to the collection of delinquent taxes on the unsecured roll pursuant to this section, the tax collector shall send a notice of delinquency stating intent to enforce collection.

(c) The notice required by subdivision (b) shall set forth the following information:

(1) The name of the assessee.

(2) The description of the property assessed.

(3) The assessed value of the property.

(4) The fact that collection will be enforced on the unsecured roll in the amount of the tax, penalty, interest and actual costs of collection.

History.—Added by Stats. 1992, Ch. 523, in effect January 1, 1993. Stats. 2000, Ch. 116 (AB 1991), in effect January 1, 2001, lettered the former first paragraph as subdivision (a), and substituted "any" for "an" after "If", and deleted "on fixtures and personal property only" after "the board" therein; and added subdivisions (b) and (c).

Article 5. Property Statements *

826. **Property statement.** Upon request of the board, a person shall submit a property statement pertaining to any state-assessed property owned, claimed, possessed, used, controlled, or managed by him, in the form prescribed by the board.

(a) The statement shall be made under oath and filed with the board.

(b) In the case of a corporation, the property statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statement on behalf of the corporation.

History.—Stats. 1966, p. 668 (First Extra Session), in effect October 6, 1966, deleted the language making a property statement under oath mandatory and added the first sentence. Stats. 1968, p. 2000, in effect November 13, 1968, added subdivision letters, added "made under oath and" in subdivision (a), and added subdivision (b).

827. **Contents.** The statement shall show specifically any information required by the board in order to assess state assessed property.

828. **Information.** [Repealed by Stats. 1977, Ch. 147, in effect January 1, 1978.]

828. **Information.** Any person with knowledge or records pertinent to the appraisal of state-assessed property shall make them available to the board on request. The person shall make available at his principal place of business, principal location, or principal address in California, or at a place mutually agreeable to the board and the person, a true copy of business records relevant to the amount, cost, and value of all property that he owns, claims, possesses, or controls within the state.

History.—Added by Stats. 1977, Ch. 147, in effect January 1, 1978. Stats. 1979, Ch. 516, in effect January 1, 1980, added the second sentence.

Prospective strategic plan.—Portions of a railroad's confidential corporate strategic plan dealing with possible future acquisitions were not reasonably relevant to a legitimate inquiry by the Board regarding assessment of the railroad's existing taxable property, and the Board therefore could not compel their disclosure. Only income from existing property may be capitalized under the income valuation method used to assess the railroad. Thus, the information was irrelevant, because possible future acquisitions could not affect the existing property's fair market value. *Union Pacific Railroad Co.* v. *State Board of Equalization,* 49 Cal.3d 138.

828.5. **Failure to file statement.** [Repealed by Stats. 1977, Ch. 147, in effect January 1, 1978.]

* Article 5 heading was amended and renumbered by Stats. 1976, Ch. 877, p. 1994, in effect January 1, 1977.

829. **Absence of statement.** Failure of the board to demand or secure the property statement does not render any assessment invalid.

830. **Conclusive assessments.** [Repealed by Stats. 1977, Ch. 147, in effect January 1, 1978.]

830. **Failure to file statement.** (a) If the request of the board is mailed before the lien date as defined in Section 722, the property statement shall be filed with the board by March 1, and shall be in such detail as the board may prescribe.

(b) If the request of the board is mailed on or after the first day of January following the lien date, the property statement shall be filed with the board within 60 days after the request is mailed.

(c) Except as hereinafter provided, if any person fails to file the property statement, in whole or in part, by March 1, or by that later date to which the filing period is extended pursuant to subdivision (b) or Section 830.1, a penalty shall be added to the full value of the assessment of so much of the property as is not timely reported as follows:

(1) For any part of the property statement relating to the development of the unit value of operating property, the penalty shall be 10 percent of the unit value.

(2) For any part of the property statement, not relating to the development of the unit value of operating property, that lists or describes specific operating property, the penalty shall be 10 percent of the allocated value of the property, which penalty shall be added to the unit value.

(3) For any part of the property statement that lists or describes specific nonunitary property, the penalty shall be 10 percent of the value of the property.

(4) If the failure to timely file a property statement is due to a fraudulent or willful attempt to evade the tax, a penalty of 25 percent of the assessed value of the estimated assessment shall be added to the assessment. A willful failure to file a property statement as required by Article 5 (commencing with Section 826) shall be deemed to be a willful attempt to evade the tax.

(5) No penalty added pursuant to paragraph (1), (2), (3), or (4) may exceed twenty million dollars ($20,000,000) of full value. In addition, if a penalty has been added pursuant to paragraph (1), (2), or (3), if a claim for refund seeking the recovery of that penalty has been filed by the state assessee contesting the penalty within three months of the due date of the second installment, and the state assessee initiates an action in the superior court within one year of the filing of the claim for refund, the state assessee is not subject to any further penalties on subsequent assessments for failure to comply with any subsequent request seeking information or data with respect to the same issue as set forth in the claim for refund filed within the time limits set forth above, until the assessment year after a final decision of the court, and then only with respect to a failure to comply with a request for

information with respect to assessments after a final decision of the court. For purposes of this paragraph, ''same issue'' means the type of information that is the subject of the disputed request for information.

(d) Any person who subscribes to the board's tax rate area change service and who receives a change mailed between April 1 and May 1, shall file a corrected statement no later than May 30 with respect to those parts of the property statement that are affected by the change.

If that person receives a change mailed after May 1, a corrected statement shall be filed no later than the 60th day following the mailing of that change.

(e) Penalties incurred for filings received after June 30 may be included with the assessments for the succeeding fiscal year.

(f) If the assessee establishes to the satisfaction of the board that the failure to file the property statement or any of its parts within the time required by this section was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, provided the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

History.—Added by Stats. 1977, Ch. 147, in effect January 1, 1978. Stats. 1982, Ch. 1465, in effect January 1, 1983, in addition to making a number of grammatical changes, added subsection (4) to the third paragraph of subdivision (a), renumbered former subsection (4) thereof as (5), and substituted "(3), or (4)" for "or (3) of this subdivision" after "(2)," in subsection (5). Stats. 1985, Ch. 1091, effective January 1, 1986, substituted "twenty million dollars ($20,000,000)" for "five million dollars ($5,000,000)" in the first sentence of subdivision (a) (5) and added the second and third sentences thereto. Stats. 1986, Ch. 1457, effective January 1, 1987, substituted "March" for "April" after "by" in the first and second paragraphs of subdivision (a), substituted "that" for "such" after "by" and substituted "830.1" for "15620 of the Government Code" after "Section" in the second paragraph of subdivision (a); substituted "development" for "derivation" in subsection (a)(1) after "to the"; and substituted "nonunitary" for "nonoperating" after "specific" in subsection (a)(3). Stats. 1987, Ch. 498, in effect January 1, 1988, substituted "the state assessee shall not be subject to any further penalties on" for "the board shall not add any further penalties to any" after "refund,", and added "assessment" after "until the" in the second sentence of subsection (a)(5). Stats. 1990, Ch. 126, in effect June 11, 1990, added "If the request . . . Section 722," after "(a)", substituted "the" for "The" and deleted "annually" after "with the Board" in subdivision (a), added subdivision (b), added subdivision letter (c), added "subdivision (b) or" after "pursuant to" in subdivision (c), added "if" after "(3)," and substituted "the" for "a" after "set forth in" in the first sentence of subdivision (c)(5), relettered former subdivisions (b), (c) and (d) as (d), (e) and (f), respectively, and added "who" before "receives" in the first paragraph of subdivision (d), and substituted "that" for "such" twice in the second paragraph of subdivision (d). Stats. 2001, Ch. 407 (SB 1181), in effect January 1, 2002, added ", not relating to the development of the unit value of operating property," after "statement" in the first sentence of paragraph (2), substituted "may" for "shall" after "(4)" in the first sentence, substituted "is not" for "shall not be" after the third "assessee" in the second sentence, and substituted "that" for "which" after "information" in the third sentence of paragraph (5) of subdivision (c); and substituted "that" for "which" after "statement" in the first sentence of subdivision (d).

Note.—Section 11 of Stats. 2001, Ch. 407 (SB 1181) provided that the Legislature finds and declares that the amendments made by this act to Sections 830 and 830.1 of the Revenue and Taxation Code are declaratory of existing law.

830.1. **Extensions of times for filing.** Notwithstanding Section 15620 of the Government Code, the board, by order entered upon its minutes and for good cause shown, may extend the time fixed for filing portions of the property statement as follows:

(a) For any part of the property statement relating to the development of the unit value of operating property, an extension not exceeding 45 days may be granted.

(b) For any part of the property statement, not relating to the development of the unit value of operating property, that lists or describes specific operating property, an extension not exceeding 30 days may be granted.

(c) For any part of the property statement that lists or describes specific nonunitary property, an extension not exceeding 30 days may be granted.

(d) If an extension is granted pursuant to subdivision (a), (b), or (c), an additional 15-day extension may be granted upon the showing of extraordinary circumstances which prevent the filing of the statement within the first extension.

History.—Added by Stats. 1986, Ch. 1457, effective January 1, 1987. Stats. 2001, Ch. 407 (SB 1181), in effect January 1, 2002, deleted "the" before "operating" in the first sentence of subdivision (a) and added ", not relating to the development of the unit value of operating property," after "statement" in the first sentence of subdivision (b).

Note.—Section 11 of Stats. 2001, Ch. 407 (SB 1181) provided that the Legislature finds and declares that the amendments made by this act to Sections 830 and 830.1 of the Revenue and Taxation Code are declaratory of existing law.

831. **Information from local assessors.** On forms and at times prescribed by the board, it may require the assessor of any county or city to report any information in his possession concerning the value of state assessed property.

832. **Assistance from state agencies.** The board may call on any state department, board, bureau, or commission for any assistance it can render.

833. **Information held secret.** (a) Except as provided herein, all information required by the board or furnished in the property statement shall be held secret by the board and by any person or entity acquiring this information pursuant to subdivision (c). Information and records in the board's office which are not required to be kept or prepared by the board are not public documents and are not open to public inspection.

(b) This section shall not apply to maps filed pursuant to Section 326.

(c) Except as provided in Section 38706, the board may provide any assessment data in its possession to the assessor of any county. When requested by resolution of the board of supervisors of any county, or the city council of any city which prepares its own local roll, the board shall permit the auditor or the assessor of the county or city, or any duly authorized deputy or employee of that officer, to examine any and all records of the board.

(d) The board shall disclose information, furnish abstracts or permit access to any and all of its records to or by law enforcement agencies, grand juries, and other duly authorized legislative or administrative officials of the state pursuant to their authorization to examine these records.

(e) The board also may disclose information, records, and appraisal data relating to state assessment of companies engaged in interstate commerce to tax officials of other states having duties corresponding to those described by this chapter. This disclosure shall be limited to instances in which there is a reciprocal exchange of information by the states in which the interstate companies operate, and shall be made only pursuant to a written agreement between the agencies involved. This agreement shall provide that any request for information be in writing, shall specify the information to be exchanged, and shall require that any information furnished be used solely for tax administration purposes and otherwise shall be held secret. This agreement shall also provide that any information furnished be disclosed only to those persons whose duties or responsibilities require access and shall require that necessary safeguards be implemented to protect the confidentiality of the

information. The request for information and any written material furnished pursuant to the request shall be open to inspection by the person to whom the information relates at the office of the board in Sacramento.

(f) Upon receiving any request for confidential information from any person or entity described in subdivision (c) or (e), the board shall promptly notify the state assessee to which the request relates of the identity of the person or entity requesting the information and a description of the information sought. Upon sending any information in response to the request, the board shall simultaneously provide to the state assessee to which the request relates notification describing the information so transmitted and the identity of the person or entity to whom the information was transmitted.

History.—Added by Stats. 1943, p. 1997, in effect August 4, 1943. Stats. 1959, p. 3936, in effect September 18, 1959, deleted "Any," which was the first word of the section, deleted "The property statement is not a public document and is not open to public inspection.", added "Except as provided herein," and added the second paragraph. Stats. 1966, p. 669 (First Extra Session), in effect October 6, 1966, added the third paragraph. Stats. 1978, Ch. 826, in effect January 1, 1979, added "(a) Except as provided in subdivisions (b), (c), (d), and (e)," to the first paragraph of the section. The last sentence of the first paragraph of Section 833 was renumbered to "(b)". The second paragraph was renumbered to subdivision "(c)" and the third paragraph was renumbered to subdivision "(d)". In addition, subdivision "(e)" was added. Stats. 1979, Ch. 783, in effect January 1, 1980, restated subdivision (a) and added "and are not open to public inspection" after "documents"; and added the first sentence of subdivision (c). Stats. 1985, Ch. 1091, effective January 1, 1986, deleted "of this code" after "326" in subdivision (b); added "city" after "or the" and substituted "that" for "such" after "employee of" in the second sentence of subdivision (c); substituted "these" for "such" after "examine" in subdivision (d); substituted "This" for "Such" in second and third sentences of subdivision (e) and added the fourth sentence thereto; and added subdivision (f). Stats. 1986, Ch. 608, effective January 1, 1987, deleted "and the destruction of the information upon completion of its use" after "confidentiality of the information" in the fourth sentence of subdivision (e). Stats. 2001, Ch. 407 (SB 1181), in effect January 1, 2002, added "and by any person or entity acquiring this information pursuant to subdivision (c)" after the second "board" in the first sentence of subdivision (a).

Note.—Section 12 of Stats. 2001, Ch. 407 (SB 1181) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

834. **Destruction of records.** The board may destroy any documents containing information obtained from taxpayers when six years have elapsed since the lien date for the taxes for which that information was obtained. Those documents may be destroyed when three years have elapsed since the lien date if the documents have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents.

History.—Added by Stats. 1966, p. 669 (First Extra Session), in effect October 6, 1966. Stats. 1998, Ch. 583 (SB 1103), in effect January 1, 1999, substituted "six" for "seven" after "taxpayers when" and substituted "that" for "such" after "for which" in the first sentence, and added the second sentence.

Article 6. Responsibility of State Board of Equalization and Its Employees

[Repealed by Stats. 1976, Ch. 877, p. 1995, in effect January 1, 1977.]

§ 900. Conflict of interest. [Repealed.]

Article 6. Escape Assessments of State-Assessed Property

[Repealed by Stats. 1977, Ch. 147, in effect January 1, 1978.]

§ 866. Escaped property. [Repealed.]
§ 867. Statute of limitations. [Repealed.]
§ 868. Entry on roll. [Repealed.]
§ 869. Transmission of assessments. [Repealed.]
§ 870. Procedure after assessments. [Repealed.]
§ 871. Intangibles. [Repealed.]

Article 6. State Assessed Property Escaping Assessment *

861. **Escaped property.** If any property subject to assessment by the board pursuant to Section 19 of Article XIII of the Constitution escapes assessment, the board shall assess it in accordance with Section 864 at its value on the lien date of the year in which it escaped assessment.

862. **Failure to file or report.** When an assessee, after a request by the board, fails to file a property statement by the date specified in Section 830 or files with the board a property statement or report on a form prescribed by the board with respect to state-assessed property and the statement fails to report any taxable tangible property information accurately, regardless of whether or not this information is available to the assessee, to the extent that these failures cause the board not to assess the property or to assess it at a lower valuation than it would have if the property information been reported accurately, the property shall be assessed in accordance with Section 864, and a penalty of 10 percent shall be added to the additional assessment. If the failure to report or the failure to report accurately is willful or fraudulent, a penalty of 25 percent shall be added to the additional assessment. If the assessee establishes to the satisfaction of the board that the failure to file an accurate property statement was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, provided, the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

History.—Stats. 1980, Ch. 1266, in effect September 30, 1980, added the third sentence. Stats. 1990, Ch. 126, in effect June 11, 1990, added "by the date specified in Section 830", after "statement", substituted "these" for "such" after "extent that", and substituted "if" for "had" after "it would have" in the first sentence.

863. **Penalty.** If any state assessee or his agent willfully conceals, fails to disclose, removes, transfers, or misrepresents state-assessed property in order to evade taxation and this action results in state-assessed property escaping assessment, or if any state assessee or his agent through fraudulent act or fraudulent omission or through collusion between the state assessee or his agent and the board, its officers, or employees causes any state-assessed property to escape assessment, a penalty shall be imposed as follows:

(a) Insofar as values escaping assessment are part of the unit value, 25 percent of the additional unit assessed value shall be added to the unallocated unit assessment.

* Article 6 was added by Stats. 1977, Ch. 147, in effect January 1, 1978.

(b) Insofar as the values escaping assessment relate to the assessment of nonunitary property, 25 percent of the additional assessment shall be added to the nonunitary assessment.

864. **Entry on roll.** (a) Property which is found to have escaped assessment may either be added to the roll for the fiscal year in which it is discovered or included with the assessments for the succeeding fiscal year. To the escaped assessment, there shall be added, in lieu of interest, three-quarters of 1 percent of the escaped assessed value for each month or fraction thereof from December 10 of the year in which the escaped assessment should have been enrolled to the date the escaped assessment is added to the board roll; provided, however, that an assessment in lieu of interest shall not be added if the escape was due to an error, other than an erroneous opinion of value, on the part of the board. The property shall be taxed at the rates applicable to assessments on the roll to which it is added.

(b) If the escaped assessment is made as a result of an audit which discloses that property assessed to the party audited has been excessively assessed for any year covered by the audit which falls within the period provided for corrections under Section 4876, the excessive assessments together with any assessment in lieu of interest under subdivision (c) shall be an offset against proposed escaped assessments, including accumulated penalties and additional assessments in lieu of interest. If the excessive assessments exceed the escaped assessments, including penalties and assessments in lieu of interest, the excess may either be credited to the roll for the fiscal year in which it is discovered or deducted from the assessment for the succeeding fiscal year.

(c) Whenever the excessive assessments were due to clerical errors or other errors by the board not involving exercise of judgment, there shall be added, in lieu of interest, three-quarters of 1 percent of the excessive assessment for each month or fraction thereof, from December 10 of the year in which the excessive assessment was enrolled to the date the excessive assessment is credited to the board roll or to the date the excessive assessment is deducted from the assessment from the succeeding fiscal year, as provided in subdivision (b).

History.—Stats. 1979, Ch. 516, in effect January 1, 1980, added the second sentence. Stats. 1982, Ch. 1465, in effect January 1, 1983, added "(a)" before "Property" at the beginning of the first sentence; deleted "assessment which has" after "to the", substituted "three-quarters" for "one-half" before "of 1", added "escaped" before "assessed value", added "or fraction thereof" after "month", added "escaped" before second "assessment," substituted "escaped" for "additional" before third "assessment", and substituted "an assessment . . . added if" for "no such addition shall be made where" before "the escape" in the second sentence of subdivision (a); substituted "the" for "Such" at the beginning of the third sentence of subdivision (a); and added subdivisions (b) and (c).

865. **Property in more than one county.** When the value of a state assessee's unitary property that lies in more than one tax-rate area has been underallocated to one or more tax-rate areas and overallocated by a like amount to one or more other tax-rate areas for any reason, the misallocation shall be corrected by the board either by orders directing local auditors to amend the rolls for the fiscal year in which the misallocation is discovered or by changes on the board rolls for the fiscal year succeeding discovery.

866. **Statute of limitations.** Any assessment to which the penalty provided in Section 863 must be added shall be made within six years of July 1 of the assessment year in which the property escaped assessment. Any other escaped assessment shall be made within four years of July 1 of the assessment year in which the property escaped assessment.

867. **Creation of lien or charge on property.** An assessment made pursuant to this article against real property for the year or years in which such real property escaped assessment shall not create or impose a lien or charge on such real property for taxes, interest, or penalty if (1) such real property has been transferred or conveyed to a bona fide purchaser for value prior to the date of such assessment and the showing thereof on the secured roll with the date of entry specified thereon; or (2) such real property is subject to a lien of a bona fide encumbrance for value created and attaching prior to the date of such assessment and the showing thereof on the secured roll with the date of entry specified thereon. In such cases, the tax collector may record with the county recorder of any county a certificate which shall set forth the name of the person who would have been the assessee in the year in which such real property escaped assessment and the amount or amounts of any such assessments and penalties. From the date of the recording of such certificate, a lien shall be created and shall attach against any real property owned by such person in the county or counties in which any such certificates may have been recorded, which lien shall have the force, effect and priority of a judgment lien.

The tax collector, with the approval of the board of supervisors, may at any time release all or any portion of real property subject to any lien created or attaching by the recording of such a certificate from such lien or subordinate such lien to other liens and encumbrances if he or she determines that the assessment or taxes are sufficiently secured by a lien on other property belonging to the person named in such a certificate or that the release or subordination will not endanger or jeopardize the collection of such assessment or taxes.

A written certification by the tax collector to the effect that real property subject to any lien imposed by the recording of the certificate as hereinbefore provided has been released from such lien or that such lien has been subordinated to other liens shall be conclusive evidence as to any bona fide purchaser, encumbrancer, or lessee that such lien has been released or has been subordinated as set forth in such written certification. Such written certification may be recorded with the county recorder of any county.

868. **Extension of time for making escape assessment.** If, before the expiration of the time prescribed in Section 866 for making an escape assessment, the taxpayer has consented in writing to allow an assessment after that time, the assessment may by made by the board at any time prior to the expiration of the period agreed upon. The period may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

History.—Added by Stats. 1983, Ch. 1281, in effect September 30, 1983. Stats. 1992, Ch. 523, in effect January 1, 1993, deleted "assessor or" after "cases, the" in the second sentence of the first paragraph; and added "or she" after "he" in the second paragraph.

Article 7. Penal Assessments of State-Assessed Property

[Repealed by Stats. 1977, Ch. 147, in effect January 1, 1978.]

CHAPTER 5. SPECIAL TYPES OF PROPERTY

Article 1. Generally

981. **Property on consignment.** [Repealed by Stats. 1984, Ch. 678, in effect January 1, 1985.]

982. **Decedents' estates.** The undistributed or unpartitioned property of deceased persons may be assessed to the heirs, guardians, conservators, executors, or administrators. A payment of taxes by any one of them binds each of the other parties in interest for his proportionate share.

History.—Stats. 1979, Ch. 730, in effect January 1, 1980, operative January 1, 1981, added "conservators," after "guardians," in the first sentence of the first paragraph.

Note.—On payment of taxes as a condition precedent to distribution see Probate Code Section 1024.

Actions.—Actions for taxes due from an estate are properly bought against the custodian of the estate under the provisions of this section. *San Francisco* v. *Pennie,* 93 Cal. 465.

982.1. **Property distributed to State.** If real property of a deceased person is distributed to the State because there are no known heirs or because the estate or any portion thereof is to be distributed to heirs, devisees, or legatees whose whereabouts are unknown, such real property shall be

assessed to the estate of the decedent and to the State of California. Such assessment shall involve no liability on the part of the State to pay taxes except as provided by Sections 4986.5 and 4986.6.

History.—Added by Stats. 1951, p. 377, in effect September 22, 1951.

983. **Property in legal custody.** Property in litigation in possession of a county treasurer, court, county clerk, or receiver shall be assessed to the officer in possession, and the taxes shall be paid under the direction of the court.

Funds in litigation.—Money placed in a bank as special deposits pursuant to court orders and stipulations of the parties to await the outcome of the litigation is subject to assessment for taxation as money in litigation in possession of a ''receiver.'' *Spring Valley Water Co.* v. *San Francisco,* 246 U.S. 391.

The amount of an award paid by the city to the county treasurer for the benefit of a property owner in a condemnation proceeding is not a solvent credit of the property owner for purposes of taxation, but is to be assessed to the county treasurer under the provisions of this section, and no deduction is allowable on account of debts owed by the property owner. *Bessolo* v. *City of Los Angeles,* 176 Cal. 597.

When money deposited with the county treasurer pursuant to a court order is assessed to one of the parties to pending litigation instead of to the treasurer, the assessment is void, and in the following year the money is properly assessed as property which has escaped assessment. *City of San Luis Obispo* v. *Pettit,* 87 Cal. 499.

Under this section the court is authorized to ascertain the amount of taxes to be paid on funds and solvent credits in the hands of the receiver, and to order that the tax be paid by the receiver. *City of Los Angeles* v. *Los Angeles City Water Co.,* 137 Cal. 699.

Tangible personal property.—Jewelry which was left by the owner in Los Angeles County when he changed his residence to Ventura County and was impounded with the clerk of Los Angeles County in a divorce action was properly taxed by that county while in the possession of the clerk as required by this section even though the owner did not consent to the impounding. *Howard* v. *City of Los Angeles,* 143 Cal.App.2d 195.

Levy of attachment.—An airplane under a levy of attachment by the county sheriff before and on the tax lien date was not property ''in litigation'' and was not assessable to the sheriff. *United States Overseas Airline* v. *Alameda County,* 235 Cal.App.2d 348.

984. **Water ditches.** Water ditches constructed for mining manufacturing, or irrigation purposes and toll roads shall be assessed like real estate, at a rate per mile for that portion of the property lying within the county.

Assessment by Districts.—When a ditch runs through several districts, a failure to assess separately the portion situated in each district renders the assessment void. *Kern Valley Water Co.* v. *Kern County,* 137 Cal. 511, and 150 Cal. 801.

Appurtenant Ditches.—Apparently the ditches referred to in this section are those which are constructed on a large and extensive scale, not appurtenant to any particular parcel of land, but operated for the benefit of communities and neighborhoods for mining, manufacturing, irrigating and other purposes. See *Coonradt* v. *Hill,* 79 Cal. 587; *Gartlan* v. *C. A. Hooper & Co.,* 177 Cal. 414; *Ayer* v. *Grondoni,* 45 Cal.App. 218.

A municipal corporation may assess part of a water system, that is, canals, pipe lines, and rights of way, located in the city limits, although the system is appurtenant to lands without the municipality. *Temescal Water Co.* v. *Niemann,* 22 Cal.App. 174.

985. **Toll bridges.** Every toll bridge connecting two or more counties shall be assessed in equal proportions in the counties it connects.

986. **Works of art.** The full value of a work of art, still owned by the artist who created it and which has never been sold nor exhibited for profit, is the full value of the materials which constitute the work of art.

History.—Stats. 1974, Ch. 311, p. 611, in effect January 1, 1975, substituted "full value" for "cash value" in both places.

987. **Lands owned by local governments.** The assessment of lands owned by a local government that are located outside its boundaries shall be as specified in Section 11 of Article XIII of the Constitution. The State Board of Equalization shall compute for each assessment year, on or before the lien date of that assessment year, the ratio to be applied to land assessed as of the

1966 lien date and the ratio to be applied to land assessed as of the 1966 lien date in the manner specified in subdivision (b) of Section 11 of Article XIII of the Constitution.

History.—Added by Stats. 1977, Ch. 246, in effect January 1, 1978.

988. **Motion pictures.** (a) The full value of motion pictures, including the negatives and prints thereof, is the full value of only the tangible materials upon which such motion pictures are recorded. Such full value does not include the value of, or any value based upon, any intangible rights, such as the copyright or the right to reproduce, copy, exhibit or otherwise exploit motion pictures or the negatives or prints thereof.

(b) As used in this section, ''motion pictures'' includes those intended for transmission, exhibition, or exploitation, by any means or method and whether or not production thereof has been completed.

(c) As used in this section, ''negatives and prints'' includes any film or other tangible property, and reproductions thereof, upon which is recorded by any means or method the sound or action of motion pictures, in positive, negative, or any other form.

History.—Added by Stats. 1968, p. 1762, in effect November 13, 1968. Stats. 1974, Ch. 311, p. 611, in effect January 1, 1975, substituted "full value" for "cash value" in both places in the first sentence and in the second sentence of subdivision (a).

989. **Pledged goods.** Unredeemed pledged goods in the possession of a pawnbroker, but not owned by him to hold and dispose of as his property, shall not be assessed to him.

History.—Added by Stats. 1968, p. 875, in effect November 13, 1968.

990. **Migratory livestock.** Where migratory livestock are ranged in two or more counties during the year, the assessors of the counties interested may meet and prorate the number of stock to be assessed in each county, taking into consideration the time such stock ranged in each county.

History.—Added by Stats. 1968, p. 1201, in effect November 13, 1968.

Note.—Stats. 1968, p. 1201, provides that it is not the intent of the Legislature to increase the burden of livestock owners in reporting information to county assessors. Stats. 1968, p. 1201, in effect November 13, 1968, which provided that Section 990 would not be operative after July 1, 1970, was repealed by Stats. 1970, p. 1075, in effect November 23, 1970.

991. **Baled cotton; tax rate.** [Repealed by Stats. 1979, Ch. 1150, in effect September 28, 1979.]

992. **Wine or brandy.** [Repealed by Stats. 1984, Ch. 678, in effect January 1, 1985.]

993. **Distilled spirits.** [Repealed by Stats. 1984, Ch. 678, in effect January 1, 1985.]

994. **Steel-wheeled, track-laying and rubber-tired equipment.** The following vehicles and equipment, with the exception of implements of husbandry which are subject to the provisions of Sections 410 to 414, inclusive, shall be subject to the provisions of this section, notwithstanding the provisions of Section 10758:

(a) Steel-wheeled and track-laying equipment shall not be subject to the license fees imposed pursuant to Part 5 (commencing with Section 10701) of Division 2 of this code, but shall be assessed in the county where it has situs on the lien date.

(b) Rubber-tired equipment, except commercial vehicles and cranes registered under the Vehicle Code and which are licensed under Part 5 (commencing with Section 10701) of Division 2 of this code, which must be moved or operated under permit issued pursuant to Section 35780 of the Vehicle Code, shall be assessed in the county where it has situs on the lien date, but the assessee of such property shall be allowed to deduct from the amount of property tax the amount of any fee paid on such vehicle under Part 5 (commencing with Section 10701) of Division 2 of this code, if such fee is paid prior to the lien date for the calendar year in which the lien date occurs.

(c) Rubber-tired cranes and commercial vehicles which must be moved or operated under permit issued pursuant to Section 35780 of the Vehicle Code, and rubber-tired equipment that does not require a permit, which cranes, vehicles, and equipment are registered under the Vehicle Code and licensed under Part 5 (commencing with Section 10701) of Division 2 of this code, shall not be otherwise assessed for purposes of property taxation.

History.—Added by Stats. 1971, p. 3581, in effect March 4, 1972, operative on the lien date in 1972. Stats. 1972, p. 2, in effect January 25, 1972, operative March 4, 1972, repealed section 994 as added by Stats. 1971, p. 3581, Stats. 1972, p. 2, in effect January 25, 1972, operative on the lien date in 1972 added the present section 994. Stats. 1973, Ch. 841, p. 1505, in effect January 1, 1974, eliminated reference to sections 565, 570, and 575 of the Vehicle Code in the introduction and added the reference to sections 410 to 414; substituted "Steel-wheeled and" for "Any steel/wheeled or" in subdivision (a); and Sec. 2 of the act provides it does not exempt property taxable January 1, 1973. Stats. 1974, Ch. 1430, p. 3133, in effect January 1, 1975, added ", except commercial vehicles and cranes registered under the Vehicle Code and which are licensed under Part 5 (commencing with Section 10701) of Division 2 of this code," after "equipment", and added "issued pursuant to Section 35780 of the Vehicle Code," after "permit" in subdivision (b); and added "Rubber-tired cranes and commercial vehicles which must be moved or operated under permit issued pursuant to Section 35780 of the Vehicle Code, and" at the beginning of, and substituted ", which cranes, vehicles, and equipment are registered under the Vehicle Code and" for "and which is" in subdivision (c). Sec. 3 thereof provided no payment by state to local governments because of this act. Stats. 1977, Ch. 246, in effect January 1, 1978, substituted paragraph before subdivision (a) for "Notwithstanding the provisions of section 410 to 414, inclusive, and 10758:"

Note.—There has been a conflict of opinion as to whether special construction equipment and special mobile equipment referred to in this act is subject to the general property tax or to the Vehicle License Fee Law. In order that certainty concerning the taxation of such equipment be established at the earliest possible time it is necessary that this act go into immediate effect.

Note.—Section 3 of Stats. 1974, Ch. 1430, p. 3134, stated that the property affected by the amendments to the section was not subject to local assessment and taxation as of January 1, 1973, when only special construction equipment and special mobile equipment were subject to local assessment and taxation thereunder. Cranes are expressly excluded from the definition of special construction equipment in subdivision (b) of Section 570 of the Vehicle Code. Further, cranes are not within the definition of special mobile equipment. Commercial vehicles are neither special construction equipment nor special mobile equipment. Accordingly, such amendments specifically revert cranes and commercial vehicles to the tax status they were as of January 1, 1973.

995. **Storage media for computer programs.** Storage media for computer programs shall be valued on the 1972 lien date and thereafter as if there were no computer program on such media except basic operational programs. Otherwise, computer programs shall not be valued for purpose of property taxation.

As used in this section, storage media for computer programs may take the form of, but are not limited to, punched cards, tapes, discs or drums on which computer programs may be embodied or stored.

As used in this section, a computer program may be, but is not limited to a set of written instructions, magnetic imprints, required documentation or other process designed to enable the user to communicate with or operate a computer or other machinery.

History.—Added by Stats. 1972, p. 385, in effect June 23, 1972. Stats. 1973, Ch. 990, p. 1906, in effect January 1, 1974, substituted "lien date and thereafter" for "and 1973 lien dates" after "1972" in the first sentence; and Sec. 5 of the act provides no state payment to local government because of the act.

Note.—Stats. 1972, p. 385, provided: It is the intent of the Legislature that storage media, except basic operational programs, for computer programs shall be valued as if it had no computer program placed on it, except any basic operational programs. The Legislature recognizes that it is not in the public interest to value storage media for computer programs except as provided above. Basic operational programs, like law books or other standard reference books, have value which is measurable, but any other programs, like an attorney's brief, an engineer's calculations, or business records would be highly speculative.

It is the intent of the Legislature that only those basic operational programs which are presently being assessed and taxed in the various counties continue to be assessed and taxed during the effective period of this act. The value of other computer programs is not now subject to property tax, was not intended to be subject to property tax and shall not be subject to property tax, either directly or indirectly or through the inclusion of the value of such computer programs in evaluating related storage media for computer programs. Taxation of these expressions of creativity would be detrimental to research and an expansion of business activity within the state.

Construction.—The Board's 1996 amendment to Property Tax Rule 152 properly clarified what constitutes a computer's basic operational program, as opposed to other, separate programs, was a legitimate exercise of the Board's rulemaking authority, and it was consistent with the Legislature's intent in enacting this section to exempt basic computer programs from taxation. *Hahn* v. *State Board of Equalization,* 73 Cal.App.4th 985.

995.1. **Storage media for computer programs; escape assessments.** [Repealed by Stats. 1983, Ch. 1281, in effect September 30, 1983.]

995.2. **Basic operational program.** The term ''basic operational program,'' as used in Section 995, means a computer program that is fundamental and necessary to the functioning of a computer. A basic operational program is that part of an operating system including supervisors, monitors, executives, and control or master programs that consist of the control program elements of that system.

For purposes of this section, the terms ''control program'' and ''basic operational program'' are interchangeable. A control program, as opposed to a processing program, controls the operation of a computer by managing the allocation of all system resources, including the central processing unit, main storage, input/output devices and processing programs. A processing program is used to develop and implement the specific applications that the computer is to perform. Its operation is possible only through the facilities provided by the control program. It is not in itself fundamental and necessary to the functioning of a computer.

Excluded from the term ''basic operational program'' are processing programs, which consist of language translators, including, but not limited to, assemblers and compilers; service programs, including but not limited to, data set utilities, sort/merge utilities, and emulators; data management systems, also known as generalized file-processing software; and application programs, including, but not limited to, payroll, inventory control, and production control. Also excluded from the term ''basic operational program'' are programs or parts of programs developed for or by a user if they were developed solely for the solution of an individual operational problem of the user.

A control program, as used in this section, includes the following functions: selection, assignment, and control of input and output devices; loading of programs, including selection of programs from a system resident library; handling the steps necessary to accomplish job-to-job transition; controlling the allocation of memory; controlling concurrent operation of multiple programs or computers; and protecting data from being inadvertently destroyed as a result of operator program error.

History.—Added by Stats. 1973, Ch. 990, p. 1907, in effect January 1, 1974. Sec. 5 of the act provides no state payment to local government because of the act. Stats. 1998, Ch. 583 (SB 1103), in effect January 1, 1999, deleted "and for purposes of Section 995.1," after "Section 995" in the first sentence of the first paragraph; deleted "; however," after "control program" in the fourth sentence and created the fifth sentence with the balance of the former fourth sentence after "program" in the second paragraph; deleted "such" after "includes" in the first sentence of the fourth paragraph; and substituted "that" for "which" throughout text. Stats. 1999, Ch. 83 (SB 966), in effect January 1, 2000, added a comma after "Section 995" in the first sentence and added a comma after "executives" in the second sentence of the first paragraph; added a comma after "section" in the first sentence of the second paragraph; added a comma after the first "including", and substituted "programs, including, but not limited to, payroll, inventory control," for "programs including but not limited to payroll, inventory control" after "and application" in the first sentence of the third paragraph; substituted "the following functions: selection, assignment," for "functions as: selection, assignment" after "includes" in the first sentence of the fourth paragraph.

996. **Returnable containers for soft drink beverages.** (a) Returnable containers shall be assessed only to the person in possession thereof on the lien date, provided such person is not under a legally enforceable duty to return the containers for reuse. For the purpose of this section, a person is not under a legally enforceable duty to return returnable containers for reuse merely because such person has the right to return such containers at his election for a sum of money equal to the deposit or similar charge paid by him upon his acquisition of the containers.

(b) If a deposit or similar charge is paid by the buyer of the contents with respect to returnable containers assessable in the manner provided by this section, the cash value of such returnable containers after initial use shall be the cost of such containers, less depreciation, but shall not be less than the deposit or similar charge.

(c) As used in this section the term ''returnable containers'' means containers used to package soft drink beverages and of a kind customarily returned by the buyer of the contents for reuse.

History.—Added by Stats. 1973, Ch. 1044, p. 2069, in effect January 1, 1974, operative on March 1, 1974. Sec. 2 of the act provides no state payment to local government because of the act.

Reusable containers.—Only returnable containers used to package soft drink beverages are exempt under this section. Thus, the section does not apply to reusable containers in which a soft drink manufacturer supplied carbon dioxide gas and component syrup to its wholesale customers because the former was not a liquid and the latter was not palatable in its packaged state and was not intended to be imbibed as a refreshment. *Westinghouse Beverage Group, Inc.* v. *San Diego County,* 203 Cal.App.3d 1442.

997. **Business records.** (a) The cash value of records of persons engaged in a business or profession for purposes of this division is the cash value only of the tangible material upon which, or in which, such records are recorded, maintained or stored. Such cash value shall be determined without inclusion of or consideration of the intangible value of the information or data so recorded, maintained or stored, nor the intangible right to utilize such information or data.

(b) As used in this section ''records'' includes all written documents and photographic reproductions thereof, recorded data, research notes, calculations, and indices maintained or utilized by persons engaged in a business or profession.

(c) Nothing in this section shall prohibit a determination of full cash value for (1) books, (2) old newspapers on microfilm, (3) computer programs and storage media for such programs taxable pursuant to Section 995, (4) records which are held for sale in the ordinary course of business, or (5) records which are purchased from a person who held such records in an inventory of goods for sale in the ordinary course of business. Records sold only when a business is sold shall not be considered as ''held for sale in the ordinary course of business.''

(d) Nothing in this section shall prohibit the consideration of research and development, engineering or similar costs in the valuation of tangible property, other than records.

History.—Added by Stats. 1974, Ch. 456, p. 1077, in effect July 11, 1974, operative with respect to assessments for the 1974–75 fiscal year. Stats. 1975, Ch. 1207, in effect January 1, 1976, amended Sections 2, 3, and 4 of Stats. 1974, Ch. 456, p. 1078. Stats. 1979, Ch. 928, in effect January 1, 1980, repealed Section 3 of Stats. 1974, Ch. 456, as amended by Section 3 of Stats. 1975, Ch. 1207.

Note.—Section 2(c) of Stats. 1974, Ch. 456, p. 1078, provided for state reimbursement for revenue lost. Section 3 provided that the section shall remain in effect only through the 1978–79 fiscal year, and as of such date is repealed, unless a later enacted statute, which is chaptered before March 1, 1979, deletes or extends such date. Section 4 provided that the Legislative Analyst shall report to the Legislature on or before October 15, 1977, on the economic effect of the section, including the type of records which have been classified pursuant to the section.

Note.—Section 2(c) of Stats. 1975, Ch. 1207, provided for state reimbursement for revenue lost. Section 3 provided that the section shall remain in effect only through the 1979–80 fiscal year, and as of such date is repealed, unless a later enacted statute, which is chaptered before March 1, 1980, deletes or extends such date. Section 4 provided that the Legislative Analyst shall report to the Legislature on or before October 15, 1978, on the economic effect of this act, including the type of records which have been classified pursuant to this act. Section 5 provided that no escape assessment shall be levied against property of a type classified in Section 997 of the Revenue and Taxation Code by any local agency which did not assess property of that type for the 1971–72, 1972–73, 1973–74, and 1974–75 fiscal years. Section 6 provided that Section 1 of Chapter 456 of the Statutes of 1974 is declaratory of existing law; and Sections 2 and 3 of Chapter 456 of the Statutes of 1974 are intended to provide equitable reimbursement to local agencies that have relied for the period required by this act upon the tax revenue from the assessment of the value of the intangible property classified in Section 1 of Chapter 456 of the Statutes of 1974.

Note.—Section 2 of Stats. 1979, Ch. 928, provided that notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

998. **Timeshare estate, timeshare use, and timeshare interest.** (a) The full value of a timeshare estate or a timeshare use subject to tax under this division shall be determined by finding the real property value of the interest involved and shall not include the value of any nonreal property items, including, but not limited to, vacation exchange rights, vacation conveniences and services, and club memberships. Accordingly, the full value of a timeshare estate or timeshare use may be determined by reference to resort properties, condominiums, cooperatives, or other properties which are similar in size, type, and location to the property subject to timeshare ownership and are not owned on a timeshare basis. The aggregate assessed value of all the timeshare estates or uses relating to a single lot, parcel, unit, or other segment of real property shall be determined by adding (1) the fair

market value of the similar lot, parcel, unit, or other segment not owned on a timeshare basis, and (2) an amount necessary to reflect any increase or decrease to the market value attributable to the fact that the property is marketed in increments of time, or by any alternate method which will determine the real property value without regard to any nonreal property items which may be included.

(b) Nothing in this section shall authorize a reassessment of real property as a result of the creation or transfer of a timeshare interest in the property unless the creation or transfer of the timeshare interest constitutes a change in ownership under Chapter 2 (commencing with Section 60) of Part 2 and Section 2 of Article XIII A of the California Constitution.

(c) For purposes of this section, ''timeshare estate'' and ''timeshare use'' shall have the meanings set forth in Section 11003.5 of the Business and Professions Code, and ''timeshare interest'' shall refer to both timeshare estates and timeshare uses.

(d) Nothing in this section shall be construed as requiring the assessment of any property at less than fair market value as required by Section 401.

History.—Added by Stats. 1983, Ch. 1110, in effect January 1, 1984. Stats. 1991, Ch. 646, in effect January 1, 1992, deleted subdivision (e) which provided ''The State Board of Equalization shall adopt by June 30, 1984, regulations to carry out the provisions of this section.''.

Note.—Section 1 of Stats. 1983, Ch. 1110, provided that the Legislature finds that the development and sale of timeshare interests is an important and growing segment of the real estate industry in California and that certainty and uniformity in the assessment of such interests is important to the continued development of timeshare projects in this state.

The Legislature also finds that a significant portion of the purchase price of a timeshare interest may be attributable to features and services that are not real property, in addition to the ownership of real property. These nonreal property items may include vacation exchange rights, vacation conveniences and services, club memberships, and other intangible rights and services which are not real property and are not subject to assessment for property tax purposes.

It is, therefore, the intent of the Legislature in enacting this act to provide uniformity and certainty in the assessment of timeshares by providing a method for valuing timeshare interests which identifies only that portion of the interest constituting real property subject to property tax in accordance with Article XIII and Section 1 of Article XIII A of the California Constitution. Sec. 3 thereof provided that the Legislature finds and declares that Section 2 of this act is declaratory of, and not a change in existing law. It is the intent of the Legislature in enacting this act to clarify the application of existing law and provide uniformity and certainty in the assessment of timeshare estates and uses. Sec. 4 thereof provided that no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it under this act, since this act is declaratory of existing law.

Article 2. Goods in Transit

1016. **''Intrastate water carrier.''** As used in this article, ''intrastate water carrier'' means a person engaged in the intrastate transportation of goods by water.

1017. **''Goods in transit.''** As used in this article, ''goods in transit'' means personal property which, on the lien date, is in transit and is possessed or controlled and managed by an intrastate water carrier.

1018. **''Residence of the owner.''** As used in this article, ''residence of the owner'' means the county where the goods in transit where produced or

from which the shipment was made, if the owner owns real property other than possessory interests there, or, if he does not own real property other than possessory interests there, his place of domicile.

1019. **Situs.** Goods in transit have the residence of the owner as their situs for taxation.

1020. **Water carriers' returns.** Every intrastate water carrier shall file a copy of the bill of lading or manifest for all goods in transit with the forwarding agent or warehouse proprietor for delivery to the assessor of his county. If the goods are delivered for transportation by other persons, the intrastate water carrier shall report the goods in transit to the assessor of the county from which they were received.

1021. **Contents.** The copy of the bill of lading or manifest shall show the description, value, consignor and consignee of the goods.

1022. **Penalty.** Every person who violates any provision of this article is guilty of a misdemeanor.

Article 5. Vessels

1136. **"Ferry."** A ferry is a place where passengers and freight are regularly transported by water between two fixed termini under authority of law so to do.

1137. **Intercounty ferries.** Where a ferry connects points in more than one county, the wharves, storehouses, and stationary property connected with it shall be assessed in the county where located, and the ferryboats shall be assessed in equal proportions in the counties it connects.

1138. **Documented vessels.** Vessels documented outside of this State and plying in whole or in part in its waters, the owners of which reside in this State, shall be assessed in this State.

Constructions—"Documented" means registered, enrolled and licensed, or licensed. 46 U.S. Code 18.

Vessels employed in foreign or interstate commerce which have not by the manner of their use acquired an actual situs elsewhere are properly assessed for taxation at the port of domicile of the sole owner where they are registered under the laws of the United states, regardless of the fact that they were outside the waters of the State from a date preceding the first Monday in March in the year of the assessment and that some of them had never been within its waters. *California Shipping Co.* v. *San Francisco,* 150 Cal. 145. For the proper construction of this and the following three sections see also *Olson* v. *San Francisco,* 148 Cal. 80.

"Plying" implies regularity, and is not the term used to express the character of the irregular and transient visitations of a ship to a port. *San Francisco* v. *Talbot,* 63 Cal. 485.

Decommissioned, undocumented and inoperative navel landing craft owned by a foreign corporation and moored in a harbor in this State acquired a tax situs here. *Ships and Power Equipment Corp.* v. *San Diego County,* 93 Cal.App.2d 522.

Constitutionality.—See *San Francisco* v. *Talbot* and *Olson* v. *San Francisco,* both supra.

Situs.—A finding of ultimate fact that a tug had no taxable situs in this State was supported by the findings of probative facts where the latter showed that the owner resided and the tug was registered in Alaska, that although the tug was chartered to a corporation having its principal place of business in Los Angeles county, by the charter the tug was not

completely turned over to the charterer to be used as its own property, and that the tug spent its time partly outside the State and partly in each of several different counties, there being no showing as to the proportion of time spent in the various places. *Sayles* v. *Los Angeles County,* 59 Cal.App.2d 295.

1139. **County where habitually moored.** Except as otherwise provided in this article, when the owner or master of a taxable vessel gives written notice of its habitual place of mooring when not in service to the assessor of the county where the vessel is documented, the vessel shall be assessed only in the county where habitually moored.

1140. **County where documented.** Vessels, except ferryboats, regularly engaged in transporting passengers or cargo between two or more ports and vessels concerning which notice of habitual place of mooring has not been given shall be assessed only in the county where documented.

Construction.—This and the preceding section establish the principle of the ''home port rule'' as between counties in this state and have no application where the vessel is permanently located in a county other than the county where documented. *Smith-Rice Heavy Lifts, Inc.* v. *Los Angeles County,* 256 Cal.App.2d 190.

1141. **Nondocumented vessels.** Vessels not required to be documented shall be assessed in the county where habitually moored when not in service.

Article 6. Certificated Aircraft *

1150. **''Certificated aircraft'' defined.** As used in this article, ''certificated aircraft'' means aircraft operated by an air carrier or foreign air carrier engaged in air transportation, as defined in subdivisions (3), (5), (10), and (19) of Section 101 of Title I of the ''Federal Aviation Act of 1958'' (P.L. 85-726; 72 Stat. 731), while there is in force a certificate or permit issued by the Civil Aeronautics Board of the United States, or its successor, or a certificate or permit issued by the California Public Utilities Commission, or its successor, authorizing such air carrier to engage in such transportation.

Construction.—These sections do not impose a property tax on the value of certificated aircraft operated by an airline, but merely provide an allocation formula to determine the extent to which certificated aircraft are situated, for taxing purposes, in different taxing jurisdictions. *American Airlines, Inc.* v. *San Diego County,* 220 Cal.App.3d 164.

1151. **Situs of aircraft.** Certificated aircraft shall be deemed to be situated in this state only to the extent that such aircraft are normally physically present within the state, whether in flight or on the ground. To determine such extent for purposes of property taxation, the allocation formula specified by Section 1152 shall be applied.

Construction.—By the provision that aircraft are to be deemed situated in the state only to the extent that they are normally physically present, the Legislature intended to exclude unscheduled aircraft present in the state because of an abnormal, unusual, or nonrecurrent event. Substitution of periods of normal activity for atypical periods was consistent with such intent and with the constitutional principle that tax on aircraft having a multiple tax situs have relation to opportunities, benefits, or protection conferred or afforded by the taxing state. *Alameda County* v. *State Board of Equalization,* 131 Cal.App.3d 374.

*Article 6 was added by Stats. 1968, p. 2460, in effect August 13, 1968.

1152. **Allocation formula.** The allocation formula to be used by each assessor is as follows:

(a) The time in state factor is the proportionate amount of time, both in the air and on the ground, that certificated aircraft have spent within the state during a representative period as compared to the total time in the representative period. For purposes of this subdivision, all time, both in the air and on the ground, that certificated aircraft have spent within the state prior to the aircraft's first entry into the revenue service of the air carrier in control of the aircraft on the current lien date shall be excluded from the time in state factor. This factor shall be multiplied by 75 percent.

(b) The arrivals and departures factor is the proportionate number of arrivals in and departures from airports within the state of certificated aircraft during a representative period as compared to the total number of arrivals in and departures from airports during the representative period. This factor shall be multiplied by 25 percent.

(c) For the 1983–84 fiscal year and fiscal years thereafter, in computing the time-in-state factor, on each occasion during the representative period that a certificated aircraft has spent 720 or more consecutive hours on the ground, all ground time in excess of 168 hours shall be excluded from the time in state attributable to that aircraft.

(d) The time in state factor shall be added to the arrivals and departures factor.

(e) The figure produced by application of subdivision (d) equals the allocation to be applied to full cash value to determine the value to which the assessment ratio shall be applied.

History.—Stats. 1973, Ch. 1169, p. 2444, in effect January 1, 1974, operative March 1, 1974, added "(1) For the 1974–75 fiscal year to the 1979–80 fiscal year, inclusive" after subdivision (a), and added "factor" after "state" in the first sentence of subdivision (a)(1); added the second sentence of subdivision (a)(1); and added subdivision (a)(2). Stats. 1980, Ch. 610, in effect July 18, 1980, deleted "(1)" at the beginning of, substituted "1980–81" for "1974–75" and "and fiscal years thereafter" for "to the 1979–80 fiscal year, inclusive," in the first sentence of, and deleted "and on groundtime that certificated aircraft has spent within the state in excess of 12 consecutive hours" after "revenue flight" in the second sentence of, and deleted subdivision (a)(2). Stats. 1982, Ch. 1219, in effect January 1, 1983, deleted "for the 1980–81 fiscal year and fiscal years thereafter," before "The" at the beginning of the first sentence, and substituted "have" for "has" after "aircraft", substituted "first entry . . . lien date" for "first revenue flight" before "shall be", and deleted "the computation of" before "the time" in the second sentence of subdivision (a); added "The" before "arrivals", added "factor" before and "proportionate" after "is the", and substituted "during" for "both within this state and elsewhere in" after the second "airports" in the first sentence of subdivision (b); added subdivision (c); relettered former subdivisions (c) and (d) is (d) and (e), respectively; and substituted "(d)" for "(e)" after "subdivision" in subdivision (e).

Note.—Section 3 of Stats. 1973, Ch. 1169, p. 2445, provided the State Board of Equalization shall compute the reduction in revenues because of this act which would have taken place had the act been in effect in 1972–73, and the reduction shall be the basis for computing reimbursement for 1974–75 and later years.

Note.—Section 11.5 of Stats. 1980, Ch. 610, provided no payment by state to local governments because of this act, however, a local agency or school district may pursue other remedies to obtain reimbursement.

Note.—Section 14 of Stats. 1980, Ch. 610, provided the Legislature finds and declares that time spent within the state by a certificated aircraft prior to its first revenue flight is not representative of that aircraft's "normal physical presence within the state" as that phrase is used in Section 1151 of the Revenue and Taxation Code. The inclusion of such pre-revenue flight time in the allocation formula established pursuant to subdivision (a) of Section 1152 of the Revenue and Taxation Code distorts the predicted pattern of usage within the state during the ensuing tax year and creates an arbitrary and discriminatory basis for allocation of the taxable value of the aircraft. Section 3 of this act, which provides for the continued exclusion of time-in-state prior to an aircraft's first revenue flight from the allocation formula established in Section 1152 of the Revenue and Taxation Code, is necessary to carry out the legislative scheme for taxation of certificated aircraft and to prevent arbitrary and discriminatory taxation of newly acquired aircraft. Accordingly, the application of Section 1152 of the Revenue and Taxation Code as amended by Section 3 of this act to the 1980–81 fiscal year is necessary to accomplish these public purposes.

Note.—Section 2 of Stats. 1982, Ch. 1219, provided the amendment to subdivision (a) of Section 1152 of the Revenue and Taxation Code made by this act is declaratory of existing law.

1153. **Representative period to be used assessing.** After consulting with the assessors of the counties in which aircraft of an air carrier normally make physical contact, the board shall designate for each assessment year the representative period to be used by the assessors in assessing the aircraft of the carrier.

Designation.—In selecting a representative period for nonscheduled aircraft, the Board did not abuse its discretion in designating the entire prior assessment year, modified by the substitution of days from an earlier assessment year for those days in the prior assessment year during which the aircraft were grounded due to strike or suspension of airworthiness certificates. *Alameda County* v. *State Board of Equalization,* 131 Cal.App.3d 374.

1154. **"Air taxi" defined; assessment.** (a) As used in this section, ''air taxi'' means aircraft used by an air carrier which does not utilize aircraft having a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds in air transportation and which does not hold a certificate of public convenience and necessity or other economic authority issued by the Civil Aeronautics Board of the United States, or its successor, or by the California Public Utilities Commission, or its successor.

(b) Air taxis which are operated in scheduled air taxi operations are not subject to the provisions of Part 10 (commencing with Section 5301) of this division and shall be assessed in accordance with the allocation formula set forth in Section 1152.

(c) All other air taxis shall be assessed in the county where the aircraft is habitually situated in the same manner and at the same ratio as other personal property in the county subject to general property taxation. Such aircraft shall be taxed at the same rate and in the same manner as all other property on the unsecured roll.

History.—Stats. 1969, p. 1466, in effect August 14, 1969, added the subdivision letters, added "which are operated in scheduled air taxi operations" to subdivision (b), and added subdivision (c). Stats. 1977, Ch. 921, in effect January 1, 1978, substituted "having a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds" for "whose maximum certificated takeoff weight is greater than 12,500 pounds" in the first sentence of subdivision (a).

1155. **Jurisdiction of taxing agencies; flight time allocation.** For purposes of Section 404, certificated aircraft shall be deemed to be situated only in those taxing agencies in which the aircraft normally make physical contact with sufficient regularity to entitle such agencies to tax the aircraft under the laws and Constitution of the United States. Flight time within the state shall be allocated as follows:

(a) If the aircraft takes off in one taxing agency which is entitled to tax (within the meaning of the preceding sentence) and lands in another agency which is entitled to tax, the flight time between such taxing agencies shall be allocated one-half to each such agency.

(b) If the aircraft arrives from out of state or leaves the state, the flight time from or to the state boundary shall be allocated to the taxing agency entitled to tax in which the aircraft first lands or last takes off, as the case may be.

1156. **Right of taxing agency to tax; scope.** Nothing in this article shall be construed to enlarge the right of any taxing agency to tax certificated aircraft in a manner not permitted by the laws or Constitution of the United States.

Article 7. Property of Historical Significance

[Repealed by Stats. 1977, Ch. 1040, in effect January 1, 1978.]

§ 1161. Valuation of property subject to an historical property contract. [Repealed.]
§ 1162. Board to adopt rules and regulations. [Repealed.]

Chapter 6. Assessor's Office Equipment

§ 1251. Supervisors' duties.
§ 1252. Board's duties.
§ 1253. Cost.
§ 1254. Forms.
§ 1255. Maps.
§ 1256. Preparation of maps and block-books.

1251. **Supervisors' duties.** The board of supervisors shall furnish the assessor with the necessary office equipment, consisting of proper books, blanks, maps, office room, furniture, and stationery.

1252. **Board's duties.** If the board of supervisors fails to furnish the assessor with the necessary office equipment, then, on the assessor's application, the State Board of Equalization shall furnish it.

1253. **Cost.** In any event, the cost of furnishing the assessor's necessary office equipment is a county charge, payable like other county charges from the county general fund.

1254. **Forms.** The State Board of Equalization shall prescribe the forms for the books, blanks, and maps, and may require the map books to:

(a) Be indexed by owners' names.

(b) Show improvements and assessed value.

1255. **Maps.** The maps shall show the private lands owned or claimed in the county so as to provide a legal description of the lands.

1256. **Preparation of maps and block-books.** At the request of the assessor, the board of supervisors shall authorize and direct the assessor to prepare, or to supervise the preparation of, maps and block-books as may be needed for the assessor's office to meet the requirements of the state board with respect thereto. All costs incurred in connection therewith shall be a charge against the county general fund, payable in the same manner as other county charges. This procedure shall be in addition to any other procedure relating to matters as may otherwise be provided by law.

History.—Added by Stats. 1949, p. 1697, in effect October 1, 1949. Stats. 1993, Ch. 1187, in effect January 1, 1994, substituted "shall" for "may" after "supervisors", deleted "such" after "preparation of," and substituted "the assessor's" for "his" after "needed for" in the first sentence; and deleted "such" after "relating to" in the third sentence.

Chapter 7. Responsibility of Assessor

1361. **Liability.** The assessor and his sureties are liable on his official bond for all taxes on property which is unassessed through his wilful failure or neglect.

1362. **Taxpayer's complaint.** Any taxpayer having the necessary knowledge may file with the board of supervisors an affidavit, alleging that certain property has escaped taxation through the wilful failure or neglect of the assessor, and giving the best description of the property that he can.

Mandamus.—Mandamus was a proper procedure to compel a county tax assessor to permit inspection by a taxpayer of an affidavit or declaration of exemption submitted by a claimant and the assessor's records showing his ruling thereon; preliminary pursuance of any administrative procedure was unnecessary. *Gallagher* v. *Boller,* 231 Cal.App.2d 482.

1363. **Action on assessor's bond.** The board of supervisors shall then direct the district attorney to commence an action on the assessor's bond for the amount of taxes lost through the assessor's wilful failure or neglect.

1364. **Judgment; distribution.** On the trial of the action, the value of the property unassessed shall be shown and judgment entered for the amount of taxes that should have been collected on it. The amount thus recovered shall be distributed like money received on redemption.

Note.—Redemption money is distributed under Sections 4651–4656.7.

1365. **Conflict of interest.** (a) The county assessor and the employees of the assessor's office shall not engage in any gainful profession, trade, business or occupation whatsoever for any person, firm, or corporation, or be so engaged in their own behalf, which profession, trade, business, or occupation is incompatible or involves a conflict of interest with their duties as officers and employees of the county. Conflict of interest shall include receipt of compensation or gifts from private persons or firms for advice or other services relating to the taxation or assessment of property.

(b) If the board of supervisors or the Attorney General finds that the assessor has violated any of the provisions of subdivision (a), such violation shall constitute malfeasance in office on the part of the assessor.

(c) If the assessor or the Attorney General finds that any of the employees of the assessor's office has violated any provision of subdivision (a), such violation shall be grounds for dismissal of such employee by the assessor.

History.—Added by Stats. 1966, p. 671 (First Extra Session), in effect October 6, 1966.

1366. **Civil penalty.** Every assessor who fails to complete the local roll, or to transmit the statistical statement to the State Board of Equalization, forfeits one thousand dollars ($1,000) to the county, to be recovered on his official bond in an action brought in the name of the people by the Attorney General, when directed to do so by the board.

1367. **Report on homes receiving the homeowners' exemption.** Every county assessor shall ascertain the total assessed value of homes receiving the homeowners' property tax exemption described in Section 218 and shall report to the board during each fiscal year, commencing with the 1979–80 fiscal year, the total valuation of properties receiving such exemption each year.

History.—Added by Stats. 1979, Ch. 242, in effect July 10, 1979.

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